



February 21, 2022

AGENDA ITEM 4 B

**MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN CRTPA AND STARMETRO FOR ALLOCATION OF SU FUNDS**

TYPE OF ITEM: Consent

STATEMENT OF ISSUE

This item seeks the approval of the attached Memorandum of Understanding (MOU) between the CRTPA and Starmetro. In 2020, the CRTPA approved \$250,000 in SU funds to assist in the development of a Comprehensive Operations Analysis (COA) for the Starmetro. The COA provides an in-depth review of Starmetro's daily service operations and provides recommendations to improve service. The CRTPA received an update on the COA at the October retreat and the final COA is expected to be presented in the next few months.

In order to be consistent with federal guidelines, Starmetro requested the MOU be developed to provide the necessary documentation for use of the SU funds.

RECOMMENDED ACTION

Authorize the Executive Director to execute the MOU upon review, and modification if necessary, by the CRTPA attorney.

**SUBAWARD AGREEMENT BETWEEN THE CAPITAL REGION
TRANSPORTATION PLANNING AGENCY AND THE CITY OF TALLAHASSEE**

THIS MEMORANDUM OF UNDERSTANDING (MOU), hereafter called the Metropolitan Planning Organization (MPO) Subaward AGREEMENT (Agreement), is made and entered into on the date specified herein, by and between the Capital Region Transportation Planning Authority (“**CRTPA**”), the regions Metropolitan Planning Orgaization, and the City of Tallahassee (“**CITY**”). Both parties, CRTPA and the CITY are co-located and share the same address at 300 South Adams Street, Tallahassee, FL.

RECITALS – GOVERNING STATUTES

WHEREAS, the Federal Government, under the authority of Title 23 United States Code Section 134 and Title 49 United States Code (USC) Section 5303 and any subsequent applicable amendments, requires each metropolitan area, as a condition to the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process in designated urbanized areas to develop and implement plans and programs consistent with the comprehensively planned development of the metropolitan area; **and**

WHEREAS, Title 23 USC §134, Title 49 USC §5303, and Section 339.175, Florida Statutes (F.S.), provide for the creation of metropolitan planning organizations to develop transportation plans and programs for urbanized areas; **and**

WHEREAS, Title 23 Code of Federal Regulations (CFR) §450 requires that the State, the Metropolitan Planning Organization, and the operators of publicly owned transportation systems shall enter into an agreement clearly identifying the responsibilities for cooperatively carrying out such transportation planning (including multimodal, systems-level corridor and subarea planning studies pursuant to Title 23 CFR §450) and programming; **and**

WHEREAS, pursuant to Section 20.23, F.S., the Florida Department of Transportation (**FDOT**) has been created by the State of Florida, and the Department has the powers and duties relating to transportation, as outlined in Section 334.044, F.S.; **and**

WHEREAS, pursuant to Chapter 341,011, F.S. Laws of Florida, STARMETRO was created and established with the purpose of providing transit service to the citizens of Tallahassee, Florida; **and**

WHEREAS, the parties to this Agreement desire to participate cooperatively in the performance, on a continuing basis, of a cooperative, and comprehensive transportation planning process to assure that highway facilities, transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be located and developed in relation to the overall plan of community development.

1. Purpose of the Agreement

This agreement encapsulates CRTPA’s role as a pass-through entity in providing \$250,000 in Federal Highway Administration (FHWA) planning assistance through the Florida Department of Transportation (FDOT) to the City of Tallahassee (COT). This award is provided to assist the COT bus department (StarMetro) to finance a Comprehensive Operational Analysis (COA). The COA is a major component of the CITY ten-year Transportation Development Plan (TDP) update. The full cost of developing the TDP update is approximately \$500,000. Funds needed, in excess, of the FHWA Award, are being acquired through the Federal Transit Administration (FTA) urbanized area grant. Since the FHWA funds are Federal grant funds, FDOT as the primary grant recipient is required to flow-down the grant requirements to CRTPA, whom in turn must flow down the grant requirements to COT as the end-using subrecipient. This agreement has been designed to comply with the compliance requirements of 2 CFR 200.

2. Agencies involved

This MOU serves as an agreement between two separate, yet collaborative partners co-located within City government. The CRTPA is responsible for coordinating transportation planning within the region. This region includes Gadsden, Jefferson, Leon, and Wakulla counties. The City of Tallahassee is an operator of a publicly owned transportation system (StarMetro) with responsibility for providing fixed-route and paratransit bus services to area residents. StarMetro, also serves as the Community Transportation Coordinator (CTC) for Leon County. FDOT is an executive-level state agency charged with the establishment, maintenance, and regulation of public transportation in the state of Florida. The Department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of Florida's environment and communities.

3. Effective Date

This Memorandum of Understanding (MOU) will go into effect on the date this Agreement is signed, executed, and issued by authorized representatives of each agency.

4. Duration

This agreement shall begin on the date the agreement is fully executed and expire on June 30, 2022. Expiration of this agreement will be considered termination of the project.

5. Renewals and Extensions

This Agreement shall not be renewed or extended

6. Scope of Work

The scope of work encompasses the provision of consulting services to perform a Comprehensive Operational Analysis (COA Study) of StarMetro's fixed-route, Flex, and paratransit bus services. The analysis will include an in-depth review of StarMetro's existing service operations and identify ways to capitalize on system strengths and correct deficiencies. The study should examine all possible alternatives to address existing services, as well as currently known, but as of yet unmet, service requests, and service requests that are anticipated in conjunction with new areas of development or redevelopment. In addition, this study should define an on-going methodology for system evaluation and updated performance guidelines.

The study will also include recommended best practices for accessing federal, state, and local funding as well as potential grant opportunities. It will focus on collecting data from a variety of data points, including ridership, on-time performance, stop-level usage, and individual route characteristics.

A detailed scope of work is included as **Exhibit A**.

7. Flow Down of Required Information

2 C.F.R. §200.92 states that a "subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract."

As defined by 2 C.F.R. §200.74, "pass-through entity" means "a non-Federal entity that provides a subaward to a Sub-Recipient to carry out part of a Federal program."

As defined by 2 C.F.R. §200.93, "Sub-Recipient" means "a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program."

As defined by 2 C.F.R. §200.38, "Federal award" means "Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity."

As defined by 2 C.F.R. §200.92, "subaward" means "an award provided by a pass-through entity to a Sub-Recipient for the Sub-Recipient to carry out part of a Federal award received by the pass-through entity."

The following information is provided pursuant to 2 C.F.R. §200.331(a)(1):

Subrecipient's name:	City of Tallahassee
Subrecipient's unique entity identifier:	59-6000435
Federal Award Identification Number (FAIN):	0220058M
Federal Award Date:	06/01/2020
Subaward Performance Period - Start and End Date:	Upon execution – 06/30/2022
Amount of Federal Funds Obligated by this Agreement:	\$250,000.00
Total Amount Federal Funds Obligated to the Subrecipient by the pass-through entity to include this Agreement:	\$250,000.00
Total Amount Federal Funds Committed to the Subrecipient by the pass-through entity	\$250,000.00
Federal award project description (see FFATA):	Transportation Planning Award
Name of Federal awarding agency:	Federal Highway Administration
Name of pass-through entities:	FDOT and CRTPA
Contact information for the pass-through entity	gregslay@talgov.com
Catalog of Federal Domestic Asst (CFDA) Number/Name:	20.205 Fed-Aid Highway Program
Whether the award is R&D:	N/A
Indirect cost rate for the Federal award:	N/A

8. General Requirements:

- A. The CITY shall complete the project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this agreement, the Interlocal Agreement establishing CRTPA, and all applicable laws.
- B. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State laws, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. If FHWA or FDOT determines that any amount claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported, and FDOT shall notify the CRTPA in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, Federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or FDOT may deny participation in project costs in part or in total.
- C. The CITY's financial management system must comply with the requirements set forth in 2 CFR §200.302, specifically:
 - i. Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received.
 - ii. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 Financial reporting and 200.328 Monitoring and reporting program performance.

- iii. Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
- iv. Effective control over, and accountability for, all funds, property, and other assets.
- v. Comparison of expenditures with budget amounts for each Federal award,
- vi. Written procedures to implement the requirements of §200.305 Payment.
- vii. Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this part and the terms and conditions of the Federal award.

9. Compensation and Payment:

- A.** The CRTPA shall reimburse the CITY for costs incurred to perform services satisfactorily during a monthly or quarterly period in accordance with Scope of Work, Exhibit “A”. Reimbursement is limited to the maximum amount authorized by FDOT as part of the CRTPA’s Unified Planning Work Program (UPWP). The CITY shall submit a request for reimbursement to the CRTPA on a quarterly or monthly basis. Requests for reimbursement by the CITY shall include an invoice, an itemized expenditure report, and progress report for the period of services being billed that are acceptable to CRTPA. The CITY shall use the format for the invoice, itemized expenditure report and progress report that is approved by CRTPA. The CITY shall provide any other data required by FHWA or FDOT to justify and support the payment requested.
- B.** Pursuant to Section 287.058, Florida Statutes, the CITY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described in Exhibit A – Detailed Scope of Work.
- C.** Invoices shall be submitted by the CITY in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in Exhibit A – Detailed Scope of Work”. Deliverables must be received and accepted in writing by the CRTPA Grant Manager prior to payments.
- D.** CRTPA will honor requests for reimbursement to the CITY for eligible costs in the amount of FHWA funds approved for reimbursement in the (UPWP) and made available by FHWA. FDOT may suspend or terminate payment for that portion of the Project which FHWA, or FDOT acting in lieu of FHWA, may designate as ineligible for federal-aid. In regard to eligible costs, whichever requirement is stricter between federal and State of Florida requirements shall control. Any determination by FDOT made pursuant to this section of the Agreement is subject to the conflict and dispute resolution process set forth in Section 14 of this Agreement.
- E.** Supporting documentation must establish that the deliverables were received and accepted in writing by the CITY and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in the UPWP was met. All costs charged to the project, including any approved services contributed by the CITY or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
- F.** Bills for travel expenses, if applicable, specifically authorized in this agreement shall be documented on CRTPA’s Travel Form or on a form previously submitted to FDOT’s Comptroller and approved by the Department of Financial Services. Bills for travel expenses specifically authorized in this Agreement will be paid in accordance with Section 112.061 Florida Statutes.
- G.** Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If FDOT and/or CRTPA determines that the performance of the CITY fails to meet minimum performance levels, CRTPA shall notify the CITY of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by CRTPA

and shall, within sixty (60) days after notice, provide CRTPA with a corrective action plan describing how the CITY will address all issues of contract non-performance. The provision of such response shall be based upon the corrective action taken on by the CITY for unacceptable performance by the contractor in failing to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the FDOT and/or CRTPA, the CITY shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the CITY resolves the deficiency. If the deficiency is subsequently resolved, the CITY may bill CRTPA for the retained amount during the next billing period. If CRTPA and the CITY is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's term.

- H. An invoice submitted to FDOT involving the expenditure of metropolitan planning funds ("PL funds") is required by Federal law to be reviewed and issued a payment by the Department of Financial Services within 15 business days of receipt by FDOT for review. If the invoice is not complete or lacks information necessary for processing, it will be returned to CRTPA, and the 15 business day timeframe for processing will start over upon receipt of the resubmitted invoice by FDOT. If there is a case of a bona fide dispute, the invoice recorded in the financial system of FDOT shall contain a statement of the dispute and authorize payment only in the amount not disputed. If an item is disputed and is not paid, a separate invoice could be submitted requesting reimbursement, or the disputed item/amount could be included/added to a subsequent invoice.
- I. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to FDOT at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to FDOT upon request. Records of costs incurred include the CITY's general accounting records and the project records, together with supporting documents and records, of the consultant and all subconsultants performing work on the project, and all other records of the Consultants and subconsultants considered necessary by FDOT for a proper audit of costs.
- J. The CITY must timely submit invoices and documents necessary for the close out of the Project. Within 90 days of the expiration or termination of the grant of FHWA funds for the UPWP, CRTPA shall submit the final invoice and all financial, performance, and related reports consistent with 2 CFR §200.
- K. CRTPA performance and obligation to pay under this Agreement is also contingent upon FDOT and FHWA making funds available and approving the expenditure of such funds.
- L. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- M. Disallowed Costs: In determining the amount of the payment, the CRTPA will exclude all unauthorized Project costs incurred by the CITY prior to the effective date of this Agreement, costs incurred by the CITY which are not provided for in the latest approved budget for the Project, and costs attributable to goods or services received under a contract or other arrangements which

have not been approved in writing by the CRTPA. It is agreed by the CITY that where official audits by the federal agencies or monitoring by FDOT discloses that the CITY has been reimbursed by CRTPA for ineligible work, under applicable federal and state regulations, that the value of such ineligible items may be deducted by CRTPA from subsequent reimbursement requests following determination of ineligibility. Upon receipt of a notice of ineligible items the CITY may present evidence supporting the propriety of the questioned reimbursements. Such evidence will be evaluated by FDOT, and CRTPA will be given final notification of the amounts, if any, to be deducted from subsequent reimbursement requests.

In addition, CRTPA agrees to promptly reimburse the CITY for any and all amounts for which FDOT has made payment to CRTPA if such amounts become ineligible, disqualified, or disallowed for federal reimbursement due to any act, error, omission, or negligence of the CITY. This includes omission or deficient documentation of costs and charges, untimely, incomplete, or insufficient submittals, or any other reason declared by the applicable Federal Agency.

Any determination by FDOT made pursuant to this section of the Agreement is subject to the conflict and dispute resolution process set forth in Section 14 of this Agreement.

- N. If, after Project completion, any claim is made by CRTPA resulting from an audit or for work or services performed pursuant to this Agreement, FDOT may offset such amount from payments due for work or services done under any agreement which it has with the CITY owing such amount if, upon demand, payment of the amount is not made within 60 days to FDOT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by FDOT. Any determination by FDOT made pursuant to this section of the Agreement is subject to the conflict and dispute resolution process set forth in Section 14 of this Agreement.
- O. Indirect Costs: A state or federally approved indirect cost rate may be applied to the Agreement. If the CITY does not have a federally approved indirect cost rate, a rate up to the de minimis indirect cost rate of 10% of modified total direct costs may be applied. The CITY may opt to request no indirect cost rate, even if it has a federally approved indirect cost rate.

10. Procurement and Contracts of the CITY

- A. The procurement, use, and disposition of real property, equipment and supplies shall be consistent with the approved UPWP and in accordance with the requirements of 2 CFR §200.
- B. It is understood and agreed by the parties to this Agreement that participation by FDOT in a project with the CRTPA, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the CITY complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act (CCNA), the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of FDOT, CRTPA will involve itself, to the extent necessary, in the consultant selection process for all projects funded under this Agreement. In all cases, the CITY shall certify to CRTPA that it is compliant with the Consultants' Competitive Negotiation Act and the federal Brooks Act. The CITY shall comply with and require its consultants and contractors to comply with applicable federal law pertaining to the use of federal-aid funds.

11. Audit Reports: The administration of resources awarded through FDOT to CRTPA, to the CITY by this Agreement may be subject to audits and/or monitoring by the CRTPA. The following requirements do not limit the authority of the FDOT to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or limit the authority of any State agency inspector general, the State of Florida Auditor General or any other State official. The CITY shall comply with all audit and audit reporting requirements as specified below.

- A. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by CRTPA and or FDOT staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through FDOT by this Agreement. By entering into this Agreement, the CITY agrees to comply and cooperate fully with any

monitoring procedures/processes deemed appropriate by CRTPA. The CITY further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the FDOT.

- B. The CITY, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by FDOT and the CRTPA through this Agreement is subject to the following requirements:
- i. In the event the CITY expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the CITY must have a Federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. Exhibit “B”, Federal Financial Assistance (Single Audit Act), to this Agreement provides the required Federal award identification information needed by the CITY to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the CITY must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through CRTPA by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the CITY shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
 - iii. In the event the CITY expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the CITY is exempt from Federal audit requirements for that fiscal year. However, the CITY must provide a single audit exemption statement to FDOT [at FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the CITY’s audit period for each applicable audit year. In the event the CITY expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from CITY resources obtained from other than Federal entities).
 - iv. The CITY must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the FDOT requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
 - v. Within six months of acceptance of the audit report by the FAC, FDOT will review CRTPA’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through FDOT in this Agreement. If the CITY fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, FDOT may impose additional conditions to remedy noncompliance. If FDOT determines that noncompliance cannot be remedied by imposing additional conditions, FDOT may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 - 1. Temporarily withhold cash payments pending correction of the deficiency by the MPO or more severe enforcement action by the Department;
 - 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 - 3. Wholly or partly suspend or terminate the Federal award;

4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
 5. Withhold further Federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the CITY shall permit FDOT, or its designee, the CFO or State of Florida Auditor General access to the CITY's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The FDOT's contact information for requirements under this part is as follows:

Office of Comptroller
Florida Department of Transportation
605 Suwannee Street, MS 24
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

- C. The CITY shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the FDOT, or its designee, the CFO or State of Florida Auditor General access to such records upon request. The CITY shall ensure that the audit working papers are made available to the FDOT, or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

12. **Termination or Suspension:** CRTPA may, by written notice to the CITY, suspend any or all of the CITY obligations under this Agreement for the CITY's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. CRTPA will provide written notice outlining the particulars of suspension.

CRTPA may terminate this Agreement at any time before the date of completion if the CITY is dissolved or if federal funds cease to be available. In addition, the CRTPA or the CITY may terminate this Agreement if either party fails to comply with the conditions of the Agreement. The CRTPA or the CITY shall give written notice to all parties at least ninety (90) days prior to the effective date of termination and specify the effective date of termination.

The parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the parties shall agree upon the termination conditions.

Upon termination of this Agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc., prepared by the CITY shall, at the option of CRTPA, be delivered to CRTPA.

CRTPA shall reimburse the CITY for those eligible expenses incurred during the Agreement period that are directly attributable to the completed portion of the work covered by this Agreement, provided that the work has been completed in a manner satisfactory and acceptable to CRTPA. The CITY shall not incur new obligations for the terminated portion after the effective date of termination.

CRTPA reserves the right to unilaterally cancel this Agreement for refusal by the CITY or any consultant, sub-consultant or materials vendor to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement unless the records are confidential or exempt.

The conflict and dispute resolution process set forth in Section 14 of this Agreement shall not delay or stop the Parties' rights to terminate the Agreement.

13. **Remedies:** Violation or breach of Agreement terms by the CITY shall be grounds for termination of the Agreement. Any costs incurred by CRTPA arising from the termination of this Agreement shall be paid by the CITY.

This Agreement shall not be considered as specifying the exclusive remedy for any dispute, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

14. **Conflict and Dispute Resolution Process:** This section shall apply to conflicts and disputes relating to matters subject to this Agreement, or conflicts arising from the performance of this Agreement. If possible, the parties shall attempt to resolve any dispute or conflict within thirty (30) days of a determination of a dispute or conflict. This section shall not delay or stop the Parties' rights to terminate the Agreement. In addition, notwithstanding that a conflict or dispute may be pending resolution, this section shall not delay or stop CRTPA from performing the following actions pursuant to its rights under this Agreement: deny payments; disallow costs; deduct the value of ineligible work from subsequent reimbursement requests, or; offset pursuant to Section 9.N of this Agreement.

A. Resolution by Senior Agency Official: The affected parties to this Agreement shall, at a minimum, ensure the attempted early resolution of conflicts relating to such matters. Early resolution shall be handled by direct discussion between the following officials: for CRTPA - the Executive Director; and for the CITY - the City Manager or his delegate.

15. **Disadvantaged Business Enterprise (DBE) Policy and Obligation:** It is the policy of the FHWA and FDOT that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The CITY and its contractors and consultants agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The CITY and its contractors, consultants, subcontractors and subconsultants shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

16. **Compliance with Federal Conditions and Laws:**

A. The CITY shall comply and require its consultants and subconsultants to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the CITY is in compliance with, and will require its consultants and subconsultants to comply with, all requirements imposed by applicable federal, state, and local laws and regulations.

B. The CITY shall comply with the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable and include applicable required provisions in all contracts and subcontracts entered into pursuant to this Agreement.

C. Title VI Assurances: The CITY will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the CITY pursuant thereto, including but not limited to the requirements set forth in Exhibit "C", Title VI Assurances. The CITY shall include the attached Exhibit "C", Title VI Assurances, in all contracts with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations

D. Restrictions on Lobbying: The CITY agrees that to no federally-appropriated funds have been paid, or will be paid by or on behalf of the CITY to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the CITY to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The CITY shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

E. The CITY must comply with FHWA's Conflicts of Interest requirements set forth in 23 CFR §1.33.

17. Restrictions, Prohibitions, Controls, and Labor Provisions: During the performance of this Agreement, the CITY agrees as follows, and shall require the following provisions to be included in each contract and subcontract entered into pursuant to this Agreement:

- A.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- B.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- C.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the CITY.
- D.** Neither the CITY nor any of its contractors and consultants or their subcontractors and subconsultants shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the CITY or the entities that are part of the CITY during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the CITY, the CITY, with prior approval of FDOT, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the CITY or the locality relating to such contract, subcontract or arrangement. The CITY shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors and consultants to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the CITY or of the locality during his or her tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the CITY and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- E. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

18. Miscellaneous Provisions

A. Public Records:

- i. The CITY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CITY in conjunction with this Agreement, unless such documents are exempt from public access or are confidential pursuant to state or federal law. Failure by the CITY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

- ii. In addition, the CITY shall comply with the requirements of section 119.0701, Florida Statutes.

- B. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the provisions of this Agreement.
- C. In no event shall the making by the CRTPA of any payment to the CITY constitute or be construed as a waiver by CRTPA of any breach of covenant or any default which may then exist on the part of the CITY and the making of such payment by CRTPA, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to CRTPA with respect to such breach or default.
- D. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- E. By execution of the Agreement, the CITY represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- F. Nothing in the Agreement shall require the CITY to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the CITY will at once notify the CITY in writing in order that appropriate changes and modifications may be made by CRTPA and the CITY to the end that the CITY may proceed as soon as possible with the Project.
- G. The CITY shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by FDOT and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the CITY and FHWA requires reimbursement of the funds, the CITY will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- H. The CITY:
 - i. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CITY during the term of the contract; and

ii. shall expressly require any contractor, consultant, subcontractors and subconsultants performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor or subconsultant during the contract term.

- I. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- J. The parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- K. This Agreement and any claims arising out of this Agreement shall be governed by the laws of the United States and the State of Florida.

19. Exhibits: The following Exhibits are attached and incorporated into this Agreement:

- A. Exhibit "A", Detailed Scope of Work
- B. Exhibit "B", Federal Financial Assistance (Single Audit Act)
- C. C. Exhibit "C", Title VI Assurances

IN WITNESS WHEREOF, the undersigned parties have executed this agreement on the day, month and year set forth above.

**Capital Regional Transportation Planning Agency
(CRTPA)**

By: _____
Greg Slay (Signature)

Title: Executive Director _____

Date: _____

Legal review - MPO:
Thorton Williams, CRTPA Attorney

By: _____

**Read, agreed to, and accepted by
City of Tallahassee.**

By: _____
Reese Goad or Designee (Signature)

Title: City Manager _____

Date: _____

ATTEST TO:

By: _____
James O. Cooke, IV, City Treasurer-Clerk

Approved as to form:

By: _____
Kristen Coons McRae, Asst. City Attorney

EXHIBIT A
DETAILED SCOPE OF WORK

The scope of work encompasses the provision of consulting services to perform a Comprehensive Operational Analysis (COA Study) of StarMetro's fixed-route, Flex, and paratransit bus services. The analysis will include an in-depth review of StarMetro's existing service operations and identify ways to capitalize on system strengths and correct deficiencies. The study should examine all possible alternatives to address existing services, as well as currently known, but as of yet unmet, service requests, and service requests that are anticipated in conjunction with new areas of development or redevelopment. In addition, this study should define an on-going methodology for system evaluation and updated performance guidelines.

The study will also include recommended best practices for accessing federal, state, and local funding as well as potential grant opportunities. It will focus on collecting data from a variety of data points, including ridership, on-time performance, stop-level usage, and individual route characteristics.

The COA is an integral part of StarMetro's ten-year Transit Development Plan (TDP) update. In addition to project management, administration, and specific deliverables, scope of services for the COA update includes the following:

- Task 1 - Conduct on-board survey,
- Task 2 - Conduct line-by-line analysis,
- Task 3 - Develop market profiles by route,
- Task 4 - Conduct transfer analysis and field observations,
- Task 5 - Prepare COA documentation, and
- Task 6 - TDP major update.

To initiate a request for payment, the selected contractor will submit monthly progress billings detailing the percentage of work completed for each work task, and the current amount billed and requested for payment.

Upon completion, the COA is expected to provide recommendations for program and service design improvements for that contribute efficiency and operational effectiveness as well as define an on-going methodology for system evaluation.

EXHIBIT B
FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

CFDA No.: [20.205](#)

CFDA Title: HIGHWAY PLANNING AND CONSTRUCTION
Federal-Aid Highway Program, Federal Lands Highway Program

***Award Amount:** \$3609386

Awarding Agency: Florida Department of Transportation

Indirect Cost Rate: 0

****Award is for R&D:** No

*The federal award amount may change with supplemental agreements

**Research and Development as defined at §200.87, 2 CFR Part 200

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING AUDIT REQUIREMENTS:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards
www.ecfr.gov

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code
<http://uscode.house.gov/browse.xhtml>

Title 49 – Transportation, United States Code
<http://uscode.house.gov/browse.xhtml>

MAP-21 – Moving Ahead for Progress in the 21st Century, P.L. 112-141
www.dot.gov/map21

Federal Highway Administration – Florida Division
www.fhwa.dot.gov/fldiv

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS) www.fsr.gov

Exhibit "C"
TITLE VI ASSURANCES

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

- (1.) Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") *Title 49, Code of Federal Regulations, Part 21*, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation, or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
- (6.) Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (7.) Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on

the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).