

STATE OF TEXAS &

COUNTY OF TRAVIS &

**PUBLIC TRANSPORTATION
MASTER GRANT AGREEMENT
AMENDMENT # 1**

THIS AMENDMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State" and Fort Bend County, called the "Subrecipient".

WITNESSETH

WHEREAS, the State and the Subrecipient executed a Master Grant Agreement on Jul 16 2021 4:28PM; and

WHEREAS, federal regulations and guidance have been updated;

WHEREAS, it has become necessary to amend that Master Grant Agreement;

NOW THEREFORE, the State and the Subrecipient do agree as follows:

AGREEMENT

1. Description of Amended Items

ARTICLE 1: DEFINITIONS

The definition for 12, Equipment is replaced in its entirety with the following:

12. Equipment. Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$10,000 or more per unit.

The definition for 32, Super Circular is replaced in its entirety with the following:

32. 2 CFR Part 200. The U.S. Office of Management and Budget (OMB) consolidated eight of its existing circulars into one document. This document, titled 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, is commonly referred to as the Super Circular.

The following definition is added:

35. The Infrastructure and Investment and Jobs Act of 2021. The IIJA Public Law No. 117-58, November 15, 2021, and other authorizing legislation that may be enacted.

ARTICLE 3: TERMINATION OF MASTER GRANT AGREEMENT

The title of this article is replaced by the following:

ARTICLE 3: TERMINATION OF MASTER GRANT AGREEMENT OR PROJECT GRANT AGREEMENT

Article 3 Section 1. Termination Conditions is replaced in its entirety with the following:

1. Termination Conditions. This Master Grant Agreement or a Project Grant Agreement may be terminated for any of the following conditions:

- i. By the State if an award no longer effectuates the program goals or agency priorities (2 CFR § 200.340)
- ii. By mutual written agreement of all parties.
- iii. By either party for convenience, by giving thirty (30) days written notice to the other party for reasons of its own and not subject to the approval of the other party. In the event of termination for convenience, neither the State nor Subrecipient shall not be subject to additional liability except as otherwise provided in this agreement.
- iv. By either party upon the failure of the other party to fulfill the obligations as set forth in this Master Grant Agreement or Project Grant Agreement.

ARTICLE 4. ETHICS

The following paragraph is now added as Section 4:

4. Mandatory Disclosures. Per 2 CFR § 200.113, an applicant, recipient, or subrecipient of a Federal award must promptly disclose whenever, in connection with the Federal award (including any activities or subawards thereunder), it has credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729-3733). The disclosure must be made in writing to the Federal agency, the agency's Office of Inspector General, and pass-through entity (if applicable). Recipients and subrecipients are also required to report matters related to recipient integrity and performance in accordance with Appendix XII of this part [§ 200.113]. Failure to make required disclosures can result in any of the remedies described in § 200.339. (See also 2 CFR part 180, and 41 U.S.C. 2313.)

The following paragraph is now added as Section 5:

5. Nepotism. A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual. A "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Per Texas Government Code § 573.041, a public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- i. The individual is related to the public official within a degree described by Texas Government Code Section 573.002; or
- ii. The public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Texas Government Code Section 573.002.

ARTICLE 6: STANDARDS FOR FINANCIAL ADMINISTRATION

The paragraph in Section 3, Subrecipient's Financial Administration, Subsection iii. Internal Control, part d., is replaced in its entirety with the following:

Take reasonable cybersecurity and other measures to safeguard information including protected Personally Identifiable Information (PII) and other types of information. This also includes information

the Federal agency or pass-through entity designates as sensitive or other information the recipient or subrecipient considers sensitive and is consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

ARTICLE 11: PAYMENTS TO SUBRECIPIENTS

The paragraph in Section 4, Indirect Cost, Subsection ii., is replaced in its entirety with the following: Subrecipients may elect to use a rate derived from a current cost allocation plan documented in the required Indirect Cost Certificate submitted to the state (along with any other supporting documents required by the state) or may elect to use a de minimis rate up to 15% Modified Total Direct Cost (MTDC) as described in 2 CFR § 200.414 and TxGMS.

ARTICLE 17. PROCUREMENT STANDARDS

The paragraphs in Section 2, Subrecipient's Procurement Standards, Subsection xvi Standards Apply are replaced in their entirety with the following:

These standards shall apply to projects described in the Project Grant Agreement. For those projects requiring a formal competitive process, as described in 2 CFR § 200.320, the Subrecipient shall:

- a. Furnish to the department for review and concurrence a copy of the public notification or solicitation, prior to issuance, along with any other procurement documents requested by the department.
- b. Furnish to the department for review and concurrence notice of the intent to award a purchase order to responsible bidder along with justification for bidder selection, and any other procurement documents requested by the department.

The paragraphs in Section 2, Subrecipient's Procurement Standards, Subsection xviii Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment are replaced in their entirety with the following:

- a. Per 2 CFR § 200.216, Recipients and Subrecipients are prohibited from obligating or expending loan or grant funds to:
 1. Procure or obtain covered telecommunications equipment or services.
 2. Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or
 3. Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.
- b. As described in Public Law 115-232, Section 889, covered telecommunications equipment, or services means any of the following:
 1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 3. Telecommunications or video surveillance services provided by such entities or using such equipment.
 4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- c. For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- d. In implementing the prohibition under Public Law 115-232, Section 889, Subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available

funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

e. When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

f. For additional information, see Section 889 of Public Law 115-232 and E 200.471.

The paragraph in Section 3, State Encourages is replaced in its entirety with the following:

The State encourages subrecipients, when possible, to consider small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) for contract opportunities as set forth in E 200.321.

ARTICLE 18. PROPERTY MANAGEMENT

The paragraph in Section 3, Property Records is replaced in its entirety with the following:

Subrecipient shall maintain property records that must include a description of the property, a serial number or another identification number, the source of funding for the property (including the FAIN), the title holder, the acquisition date, the cost of the property, the percentage of the Federal agency contribution towards the original purchase, the location, use and condition of the property, and any disposition data including the date of disposal and sale price of the property. The Subrecipient is responsible for maintaining and updating property records when there is a change in the status of the property.

The paragraph in Section 5, Control System is replaced in its entirety with the following:

The Subrecipient shall develop a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated. The Subrecipient must notify the state of any loss, damage, or theft of equipment or property.

ARTICLE 20. LABOR PROTECTION PROVISIONS

The following Section is added:

10. Whistleblower. An employee of a subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The recipient and subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712. See statutory requirements for whistleblower protections at 10 U.S.C. 4701, and 41 U.S.C. 4712.

ARTICLE 21. AUDIT is replaced in its entirety with the following:

For each year the project remains open, the Subrecipient shall comply with applicable federal and state audit requirements.

1. Annual Audits of state, local government, and not-for-profit grant recipients.

State, local government and not-for-profit grant recipients that:

i. For fiscal years up to 2024, expend \$750,000 or more of Federal awards in a fiscal year are required to obtain an independent audit in accordance with 2 CFR Part 200, Subpart F.

ii. Beginning with fiscal year 2025, expend \$1million or more of Federal awards in a fiscal year are

required to obtain an independent audit in accordance with 2 CFR Part 200, Subpart F.

ii. When an audit is required, the audit report shall be submitted to the State within thirty (30) days of audit completion but no later than nine (9) months after the grant recipient's fiscal year end.

2. Annual Audits of For-Profit Grant Recipients.

i. For fiscal years up to 2024, for-profit grant recipients that expend \$750,000 or more of Federal awards in a fiscal year are required to obtain an independent program specific audit in accordance with 2 CFR Part 200, Subpart F.

ii. Beginning with fiscal year 2025, for-profit grant recipients that expend \$1million or more of Federal awards in a fiscal year are required to obtain an independent program specific audit in accordance with 2 CFR Part 200, Subpart F.

iii. The Subrecipient shall submit an annual audit certification to the State within sixty (60) days of recipient's fiscal year end to indicate if federal grant expenditures met the threshold for an annual audit.

iv. When an audit is required, the audit report shall be submitted by the auditee within the earlier of 30 days after the receipt of the auditor's report(s), or no later than nine (9) months after the grant recipient's fiscal year end.

3. Audit or Investigation by the State. The state auditor or the department may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the auditor to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the auditor with access to any information the auditor considers relevant to the investigation or audit.

ARTICLE 37 is replaced in its entirety with the following:

ARTICLE 37. CIVIL RIGHTS.

Nondiscrimination in Federal Public Transportation Programs. The Subrecipient agrees to, and assures that each Third-Party Participant will, prohibit discrimination based on race, color, religion, national origin, sex, disability, or age.

1. Equal Employment Opportunity (EEO) Requirements. The Subrecipient agrees to, and assures that each Third-Party Participant will:

i. Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.;

ii. Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;

iii. Comply with FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;" and

iv. Follow other federal guidance pertaining to EEO laws, regulations, and requirements, including current Executive Orders.

2. Title VI of the Civil Rights Act. The Subrecipient agrees to, and assures that each Third-Party Participant will, prohibit discrimination based on race, color, or national origin, and comply with:

i. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;

ii. 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; and

iii. Federal transit law, specifically 49 U.S.C. § 5332;

iv. The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

a. U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and

v. All other applicable federal guidance that may be issued, including current Executive Orders.

ARTICLE 39 is replaced in its entirety with the following:

ARTICLE 39. TRAFFICKING IN PERSONS

The Subrecipient agrees to, and assures that each Third-Party Participant will, comply with federal requirements and guidance, including (i) Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g); and U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 CFR Part 175.

2. Incorporation of Master Grant Agreement (MGA) Provisions

This amendment incorporates all the governing provisions of the MGA that are still in effect on the date of final execution of this amendment, unless an exception has been made by the terms of this MGA.

3. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Subrecipient.

THE SUBRECIPIENT

Signature

Title

Date

THE STATE OF TEXAS

Signature

PTN Section Director

Title

Date