

PGA: SECTION 5339 FEDERAL- BUS AND BUS FACILITIES PROGRAM
TRANSIT PROVIDER: **Fort Bend County**
FTA GRANT #: **TX-34-0003**
CFDA #: **20.526**
TXDOT PROJECT #: **VCR 1401 (12) 03**
PROJECT GRANT AGREEMENT #: **51412F7232**
MASTER GRANT AGREEMENT #: **512XXF7052**
FEDERAL TRANSIT ADMINISTRATION
NOT RESEARCH AND DEVELOPMENT
URBANIZED AREA: **N/A**

STATE OF TEXAS §

COUNTY OF TRAVIS §

**FEDERAL BUS AND BUS FACILITIES PUBLIC TRANSPORTATION
FISCAL YEAR 2014
PROJECT GRANT AGREEMENT**

THIS PROJECT GRANT AGREEMENT (PGA) 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 "Transit Provider."

WITNESSETH

WHEREAS, 49 U. S. Code, Section 5339 provides that eligible recipients may receive federal funds through the Bus and Bus Facilities Public Transportation Grant Program, a federal assistance program administered by the Federal Transit Administration to provide capital funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities; and

WHEREAS, Texas Transportation Code Chapter 455 authorizes the State to assist the Transit Provider in procuring aid for the purpose of establishing and maintaining public and mass transportation projects and to administer funds appropriated for public transportation under Texas Transportation Code Chapter 456; and

WHEREAS, the U.S. Secretary of Transportation approved the State's request for funding; and

WHEREAS, the Governor of the State of Texas has designated the Texas Department of Transportation to receive federal funds under the Section 5339 grant program; and

WHEREAS, the Transit Provider submitted a Fiscal Year 2014 Grant Application, Part I (GA Part I) (if applicable) for state financial assistance and the Texas Transportation Commission approved the application by Minute Order Number **113877**; and

WHEREAS, the Transit Provider must execute a GA Part I and a Fiscal Year Grant Application, Part II (GA Part II) for each fiscal year grant period for consideration for new state and federal grants; and

WHEREAS, a Master Grant Agreement (MGA) between the Transit Provider and the State has been adopted and states the general terms and conditions for grant projects developed through this PGA;

NOW THEREFORE, the State and the Transit Provider agree as follows:

AGREEMENT

ARTICLE 1. GRANT TIME PERIOD

This PGA becomes effective when fully executed by both parties. This PGA shall remain in effect until **March 31, 2016**, unless terminated or otherwise modified in an amendment. This PGA will not be considered fully executed until both parties have executed a MGA, and the Transit Provider has submitted the GA Part I (if applicable) and the GA Part II (federal funds only) to the State. The time period of this PGA cannot be extended past the MGA, without exception. Any cost incurred before or after the contract period shall be ineligible for reimbursement.

ARTICLE 2. PROJECT DESCRIPTION

- A.** The Transit Provider shall complete the public transportation project described in the GA Part I, the Attachment A - Approved Project Description and Project Budget. Attachment A is attached to and made a part of this agreement. The Transit Provider shall complete the project in accordance with all of the documents associated with the MGA and with all applicable federal and state laws and regulations.
- B.** If applicable, the Transit Provider shall begin competitive procurement procedures by issuing an invitation for bids or a request for proposals no later than sixty (60) days after the effective date of this grant agreement for the purchase of the approved line item(s) referenced in Attachment A. No later than sixty (60) days after the issuance of public notification, the Transit Provider shall publicly open all bids or privately review proposals. The Transit Provider shall enter into a binding agreement with a supplier no later than thirty (30) days after the opening of an acceptable bid or proposal. The Transit Provider shall notify the department in writing when it is necessary to exceed these deadlines.

ARTICLE 3. COMPENSATION

The maximum amount payable under this PGA without modification is **\$ 43,569 and 6,536** Transportation Development Credits, provided that expenditures are made in accordance with the amounts and for the purposes authorized in the GA Part I, Attachment A.

The original and one copy of the invoice are to be submitted to the following address:

**Texas Department of Transportation
Attn: Sharon Lewis
Public Transportation Coordinator
P.O. Box 1386
Houston, Texas 77251**

ARTICLE 4. AMENDMENTS

Except as noted in the MGA, changes in the scope, objectives, cost or duration of the project authorized in the agreement shall be enacted by written amendment approved by the parties before additional work may be performed or additional costs incurred. Any amendment must be executed by both parties within the grant period specified in Article 1, Grant Time Period.

ARTICLE 5. INCORPORATION OF MGA PROVISIONS

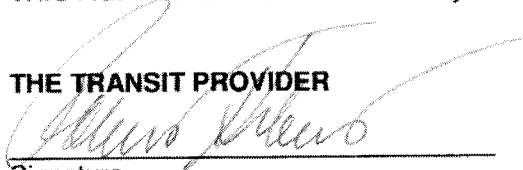
This PGA incorporates all of the governing provisions of the MGA in effect on the date of final execution of this PGA, unless an exception has been made in this agreement.

ARTICLE 6. 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 Transit Provider in duplicate.

THE TRANSIT PROVIDER


Signature

Robert E. Hebert

Typed, Printed, or Stamped Name


County Judge

Title

Date

July 22, 2014

THE STATE OF TEXAS


Signature

Sharon Lewis

Typed, Printed, or Stamped Name

Public Transportation Coordinator

Title

Date

7/28/2014

List of Attachments

A - Approved Project Description and Project Budget

B - Employee Protections

ATTACHMENT A **APPROVED PROJECT DESCRIPTION AND PROJECT BUDGET**

The application for State and Federal assistance, as submitted to the State, is hereby incorporated into this agreement as the project description.

TRANSIT PROVIDER: Fort Bend County
TXDOT PROJECT #: VCR 1401 (12) 03
URBANIZED AREA: N/A

ALI	DESCRIPTION	QUANTITY	FUEL TYPE	FEDERAL AMOUNT	TDC
11.12.04	BUS<30'	1	D	43,569	6,536

Transit provider shall comply with Article 13 of the master grant agreement requiring procurement milestone / quarterly progress reports, including but not limited to providing:

- upon execution of the PGA, a procurement plan describing the expected procurement methodology for each commodity or service to be purchased and the estimated date of initiation of the procurement process(es) (in this context, the "initiation of procurement" milestone means the date of formal solicitation issuance, requests for quotes, or similar milestone based on the appropriate methodology);
- within 90 days of PGA execution, actual dates of initiation of the procurement process(es) and expected dates to enter into a contract with supplier(s) and/or maintenance / construction contractor(s);
- in subsequent reports, depending on the commodity or service, actual dates of entering into a contract with supplier(s) and/or maintenance / construction contractor(s), and estimated dates of delivery or contract completion, and;
- in subsequent reports, actual dates of delivery or contract completion.

Transit provider shall comply with TAC rule 31.55 requiring transit provider to record a lien naming the Texas Department of Transportation, Public Transportation Division, as the lienholder when vehicles and real property are purchased through this PGA. TAC defines "real property" as "Land, including improvements, structures, and appurtenances..." For real property projects, transit provider shall file a lien with the property records or file a deed of trust in favor of TxDOT.

Attachment B – Employee Protections

U.S. Department of Labor

Office of Labor-Management Standards
Washington, D.C. 20210



June 24, 2014

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

Re: FTA Application

Texas Department of Transportation

On Behalf Of:

Alamo Area Council of Governments (AACOG)

Purchase (2) Replacement Vans

Amarillo Transit System (City of Amarillo)

Rehabilitate/Renovate Admin/Maint. Facility

Ark-Tex Council of Governments (City of Texarkana)

Purchase (1) Replacement 30-Ft. Bus and (3) Replacement Vans and Acquire Miscellaneous Support Equipment

Aspermont Small Business Development Center (ASBDC), Inc.

Acquire Shop Equipment

Bee Community Action Agency (BCAA)

Purchase (1) Replacement Van and Rehabilitate/Rebuild (1) < 30-Ft. Bus

Beaumont Transit System (City of Beaumont)

Purchase (2) < 30-Ft. Buses for Expansion, Acquire (2) Replacement Sedans/Station Wagons and Miscellaneous Support Equipment, and Rehabilitate/Renovate Administrative/Maintenance Facility

Brazos Transit District (BTD) (City of Bryan)

Purchase (3) Replacement < 30-Ft. Buses and (4) Replacement Vans, Acquire Miscellaneous Support Equipment and Shop Equipment, and Rehabilitate/Rebuild (2) < 30-Ft. Buses and Administrative/Maintenance Facility

Capital Area Rural Transportation System (CARTS) (City of San Marcos)

Purchase (4) Replacement < 30-Ft. Buses

Central Texas Rural Transit District (CTRTD)

Purchase (1) Replacement < 30-Ft. Bus,
Rehabilitate/Rebuild (3) < 30-Ft. Buses, and Acquire Miscellaneous Support Equipment

CityLink (City of Abilene)

Purchase (2) Replacement 35-Ft. Buses and Acquire Miscellaneous Support Equipment

Cleburne, City of — CLETRANS

Acquire Miscellaneous Support Equipment Colorado Valley Transit (CVT), Inc. Acquire
Miscellaneous Support Equipment

Community Action Council of South Texas (CACST)

Purchase (1) Replacement Van

Community Services (CS), Inc.

Purchase (1) Van for Service Expansion and Rehabilitate/Rebuild (6) < 30-Ft. Buses

Concho Valley Transit District (City of San Angelo)

Purchase (2) Replacement 30-Ft. Buses, (1) Replacement Trolley Bus, and (4) Vans for
Service Expansion, Rehabilitate/Rebuild (2) 30-Ft. Buses and (4) Trolley Buses, and Acquire
Support Vehicles

Del Rio, City of

Rehabilitate/Rebuild (8) < 30-Ft. Buses,
Acquire Shop Equipment, and Rehabilitate/Renovate Administrative/Maintenance Facility

East Texas Council of Governments (ETCOG)

Purchase (1) Replacement < 30-Ft. Bus and Rehabilitate/Rebuild (7) < 30-Ft. Buses

El Paso, County of

Rehabilitate/Rebuild (10) < 30-Ft. Buses

EZ Rider (City of Odessa)

Purchase (6) Replacement < 30-Ft. Buses and (3) Replacement Vans, Rehabilitate/Rebuild
(5) 30-Ft. Buses, and Acquire Miscellaneous Support Equipment

Fort Bend County

Purchase (1) Replacement < 30-Ft. Bus

Galveston County Transit District (GCTD)

Purchase (1) Replacement 30-Ft. Bus

**Golden Crescent Regional Planning Commission (GCRPC) (City of
Victoria)**

Purchase (4) Replacement < 30-Ft. Bus

Gulf Coast Center (AKA Connect Transit)

(Cities of Lake Jackson/Angleton and Texas City)

Purchase (2) Replacement 30-Ft. Buses and

Rehabilitate/Rebuild (6) < 30-Ft. Buses

Heart of Texas Council of Governments (HOTCOG)

Purchase (1) Replacement Van

Hill Country Transit District (HCTD) (City of Temple)

Purchase (2) Replacement < 30-Ft. Buses and

(1) Replacement 30-Ft. Bus and Rehabilitate/Rebuild (10) < 30-Ft. Buses

Kleberg County Human Services

Acquire Shop Equipment

Longview Transit (City of Longview)

Purchase (1) Replacement 35-Ft. Bus

Lower Rio Grande Valley Development Council (LRGVDC) — Valley Metro (City of Harlingen)

Purchase (1) Replacement Van and Rehabilitate/Renovate Administrative/Maintenance Facility

Panhandle Community Services (PCS)

Rehabilitate/Rebuild (10) < 30-Ft. Buses and (10) 30-Ft. Buses

Port Arthur Transit (PAT) (City of Port Arthur)

Purchase (2) Replacement 30-Ft. Buses

Public Transit Services (PTS)

Acquire Miscellaneous Support Equipment

Rolling Plains Management Corporation (RPMC)

Purchase (1) Replacement Van

Rural Economic Assistance League (REAL), Inc.

Rehabilitate/Renovate Administrative/Maintenance Facility

Senior Center Resources and Public Transit (SCRPT), Inc.

Purchase (1) Replacement < 30-Ft. Bus

South East Texas Regional Planning Commission (SETRPC)

Purchase (1) Replacement < 30-Ft. Bus

South Padre Island, City of

Acquire Miscellaneous Support Equipment

South Plains Community Action Association (SPCAA), Inc.

Purchase (1) Replacement < 30-Ft. Bus,

Rehabilitate/Rebuild (4) < 30-Ft. Buses, and Rehabilitate/Renovate Administrative/Maintenance Facility

Southwest Area Regional Transit District (SWARTD)

Purchase (1) Replacement < 30-Ft. Bus and (1) Replacement Van

Special Programs for Aging Needs (SPAN), Inc.

Rehabilitate/Renovate Administrative/Maintenance Facility

STAR Transit (formerly Kaufman Area Rural Transportation (KART))

Acquire Miscellaneous Support Equipment

Texoma Area Paratransit System (TAPS), Inc. (Cities of McKinney and Sherman)

Purchase (20) Vans for Service Expansion The Transit System (TTS), Inc. Purchase (1) Replacement Sedan/Station Wagon and Acquire Shop Equipment

Tyler Transit System (City of Tyler)

Purchase (2) Replacement Vans and Acquire Shop Equipment

Waco Transit System (City of Waco)

Purchase (3) Replacement 35-Ft. Buses

Webb County Community Action Agency

Purchase (1) Replacement < 30-Ft. Bus

West Texas Opportunities (WTO), Inc.

Acquire Miscellaneous Support Equipment,

Rehabilitate/Renovate Bus Station, and

Rehabilitate/Renovate Administrative/Maintenance Facility

Wichita Falls Transit (City of Wichita Falls)

Purchase (1) Replacement 35-Ft. Bus TX-34-0003

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.

In connection with a previous grant application, the City Commission of the City of Amarillo passed Resolution No. 12-23-75-6, dated December 23, 1975. Resolution No. 12-23-75-6 and a side letter to the Department of Labor from City Manager John Stiff dated April 8, 1976 provide to the employees represented by the Amalgamated Transit Union (ATU) protections satisfying the requirements of 49 U.S.C., Section 5333(b).

In connection with a previous grant application, the Beaumont Transit Company and ATU Local 1031 have agreed that the terms and conditions of their agreement dated October 30, 1974, as supplemented by the side letters dated October 30, 1974 and February 24, 1976, shall be made applicable to the instant project. This agreement, executed in connection with a previous grant application, provides to employees represented by the union protections satisfying the requirements of the statute.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the Bee Community Action Agency (BCAA), represented by the ATU Local 1769 and the International Brotherhood of Teamsters (IBT), shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

In connection with a previous grant application, the Brazos Transit District (as the successor to the Brazos Valley Community Action Agency), and ATU Local 1700 (as successor to the former Amalgamated Council of Greyhound

Local Unions) executed an agreement dated March 29, 1989, which provides to the employees represented by the union protections satisfying the requirements of 49 U.S.C., Section 5333(b).

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the Central Texas Rural Transit District (CTRDT) and the Concho Valley Transit District, represented by IBT Local 657, shall be considered third party beneficiaries in accordance with condition

(3) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the East Texas Council of

Governments (ETCOG), represented by ATU Local 1700, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the **County of El Paso**, represented by the ATU Local 1256, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of **Fort Bend County**, represented by the Transport Workers Union (TWU), shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the **Hill Country Transit District (HCTD)**, represented by the American Federation of State, County, and Municipal Employees (AFSCME), the ATU Local 1091, the IBT, and the TWU, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the **Kleberg County Human Services, the Lower Rio Grande Valley Development Council (LRGVDC), and the City of South Padre Island**, represented by the United Transportation Union (UTU) Local 1670, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the **Rolling Plains Management Corporation (RPMC)** represented by United Food and Commercial Workers (UFCW) Local 1000, and employees in the service area of **Texoma Area Paratransit System (TAPS), Inc.**, represented by United Food and Commercial Workers (UFCW) Local 1000 and ATU Local 1338, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of **STAR Transit**, represented by the ATU Local 1338, the TWU, and the UTU, shall be considered third party beneficiaries in accordance with condition (4) below for application to the instant grant.

In connection with a previous grant application, the City of Tyler signed protective arrangements as contained under Resolution R-92-10 dated February 18, 1992, which provide to the employees represented by AFSCME protections satisfying the requirements of 49 U.S.C., Section 5333(b).

In connection with a previous grant application, the City of Waco and the TWU have previously agreed to become party to the agreement executed on July 23, 1975, by the American Public Transit Association and transit employee labor organizations. The terms and conditions of the July 23, 1975 agreement provide protections to employees represented by the union which satisfy the requirements 49 U.S.C., Section 5333(b). The parties have agreed that the terms and conditions of the July 23, 1975 agreement shall be applicable to both operating and capital grants.

The January 3, 2011 Unified Protective Arrangement (UPA) provides to transportation related employees in the service area of the project protections satisfying the requirements of 49 U.S.C., Section 5333(b). Accordingly, the employees in the service area of the City of Wichita Falls, represented by the ATU Local 1700, the UTU, and the UFCW shall be considered third party

beneficiaries in accordance with condition (3) below for application to the instant grant.

The parties have agreed to the application of the above referenced protective arrangements to their respective portions of the instant project.

In addition, the recipients identified in Attachment A-1 to this certification have previously agreed to the terms and conditions of the Section 18 Warranty, which provide to the employees represented by the ATU, the UTU, AFSCME, and the Texas Conference of Teamsters, affiliated with the IBT, and the UFCW, protections satisfying the requirements of 49 U.S.C., Section 5333(b).

Pursuant to Paragraph (9) of the Section 18 Warranty, the ATU, on behalf of Locals 694, 1091, and 1700, the UTU, and the IBT became party to the Section 18 Warranty for the recipients listed respectively in Attachment A-1. The UTU and IBT did not specify recipients in their requests to become party to the Warranty. The Department has determined, however, that these unions, along with AFSCME and UFCW, would also appropriately be party to the Warranty for respective recipients in Attachment A-1.

In addition, 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 the Aspermont Small Business Development Center (ASBDC), Inc., CityLink (the City of Abilene), the City of Cleburne — CLETRANS, the City of Del Rio, EZ Rider (the City of Odessa), the Galveston County Transit District (GCTD), the Gulf Coast Center (AKA Connect Transit), Longview Transit (the City of Longview), Port Arthur Transit (PAT) (the City of Port Arthur), Senior Center Resource & Public Transit (SCRPT), Inc., the Transit System (TTS), Inc., and the Webb County Community Action Agency. 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).

In addition, the Department of Labor makes the certification called for under the statute on condition that the Texas Department of Transportation, as a precondition to the release of assistance to any Recipient under the grant, ensures that such Recipient agrees to the respective terms and conditions referenced herein. This certification letter, and the corresponding protective arrangements, shall be incorporated into the contract of assistance between the Texas Department of Transportation and the U.S. Department of Transportation (DOT), by reference. The Texas Department of Transportation 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. 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).

Accordingly, the Department of Labor makes the certification called for under the statute with respect to the above Recipients under the instant project(s) on condition that:

1. This letter and the terms and conditions of the above protective arrangements, shall be made applicable to the instant project and made part of the contract of assistance between the Texas Department of Transportation and DOT, by reference;
2. As a precondition to the release of assistance to any Recipient, this letter and the terms and conditions of the respective protective arrangements referenced above, shall be incorporated into the contract of assistance between the Texas Department of Transportation and such Recipient, by reference;

Any dispute or controversy arising regarding the application, interpretation, or enforcement of this provision which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any party to any final and binding dispute settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for a final and binding determination;

3. The term "project" as used in each of the above employee protective arrangements shall be deemed to cover and refer to those portions of the instant project to which they have been applied;
4. 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 referenced in the grant contract between the U.S. Department of Transportation and the

Texas Department of Transportation, 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 not represented by any labor organization, or if so represented through 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;

5. Disputes over the interpretation, application and enforcement of the terms and conditions of the certified protective arrangements, including those disputes arising out of this letter of certification, except for any disputes arising out of enumerated paragraph 2 above, shall be resolved in accordance with the procedures specified in the aforementioned certified arrangements; and
6. Employees of mass transportation providers in the service area of the project who are not represented by a union designated above shall be afforded substantially the same levels of protections as are afforded to the employees represented by the union(s) under the above referenced protective arrangements and this certification. Such protections include procedural rights and remedies as well as protections for individual employees affected by the project.

Should a dispute remain after exhausting any available remedies under the protective arrangements and absent mutual agreement to utilize any other final and binding resolution procedure, any party to the dispute may submit the controversy to final and binding arbitration. With respect to a dispute involving a union not designated above, if a component of its parent union is already subject to a protective arrangement, the arbitration procedures of that arrangement will be applicable. If no component of its parent union is subject to the arrangements, the Recipient or the union may request the American Arbitration Association to furnish an arbitrator and administer a final and binding resolution of the dispute under its Labor Arbitration Rules. If the employees are not represented by a union for purposes of collective bargaining, the Recipient or employee(s) may request the Secretary of Labor to designate a neutral third party or appoint a staff member to serve as arbitrator and render a final and binding determination of the dispute.

Sincerely,



Karen M. Torre, Acting Chief Division of
Statutory Programs

cc: Jayme Blakesley/FTA Scheryl
Portee/FTA
Paul Moon/Texas Department of Transportation William
Moseley/AACOG
Judy Phelps/Amarillo
Owetta Walton Best/Ark-Tex Council of Governments Dana
Myers/ASBDC, Inc.
Anna Simo/BCAA
Bill Munson/Beaumont
Margie Lucas/BTD David L.
Marsh/CARTS
J.R. Salazar/CTRTO
Ben Herr/CityLink Julie
Floyd/Cleburne
Vastene Olier/Colorado Valley Transit District Noelia
Ruiz/CACST
Charlotte Clower/CS, Inc.
John Austin Stokes/Concho Valley Transit District John J. Burns/Del
Rio
John Hedrick/ETCOG Bob
Geyer/El Paso
Rob Stephens/EZ Rider
Paulette Shelton/Fort Bend County Mike
Worthy/GCTD
Lisa A. Cortinas/GCRPC
James Hollis/Gulf Coast Center

Rep Pledger/HOTCOG Carole Warlick/HCTD
Margie Del Bosque/Kleberg County Human Services Scott Lewis/Longview
Tom Logan/LRGVDC Lylene
Springer/PCS Colleen Russell/PAT
Tom Kestranek/PAT Reta
Brooks/PTS
Lezlie M. Carroll/RPMC Gloria Ramos/REAL,
Inc. David Caldwell/SCRPT, Inc. D'Juana
Davillier/SETRPC
Jesse Arriaga/South Padre Island

Brian Baker/SPCAA

Sarah Hidalgo Cook/SWARTD Deborah
Robertson/SPAN, Inc.

Omega Ann Hawkins/STAR Transit Brad
Underwood/TAPS, Inc. Barbara L. Perry/TTS, Inc.
Barbara Holly/Tyler

John L. Hendrickson/Waco

Roberto Martinez, Jr./Webb County Community Action Agency Jenny Gibson/WTO, Inc.

Lin Barnett, Jr./Wichita Falls Lee
Saunders/AFSCME Jessica M. Chu/ATU

James P. Hoffa/IBT Jerome
Lafragola/TWU

Richard Edelman/O'Donnell, Schwartz & Anderson, P.C. Barbara
Zibordi/O'Donnell, Schwartz & Anderson, P.C. Kelly Beck/O'Donnell,
Schwartz & Anderson, P.C. Richard Hanna/UFCW Local 1000

Bonnie Morr/UTU

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

TX-34-0003

As a precondition to the receipt of assistance, the Texas Department of Transportation, shall ensure, that the "Public Bodies," the Aspermont Small Business Development Center (ASBDC), Inc., CityLink (the City of Abilene), the City of Cleburne — CLETRANS, the City of Del Rio, EZ Rider (the City of Odessa), the Galveston County Transit District (GCTD), the Gulf Coast Center (AKA Connect Transit), Longview Transit (the City of Longview), Port Arthur Transit (PAT) (the City of Port Arthur), Senior Center Resource

& Public Transit (SCRPT), Inc., the Transit System (TTS), Inc., and the

Webb County Community Action Agency, agree 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.

Attachment A (DOL Letter) - 1
Small Urban and Rural Recipients

Alamo Area Council of Governments (AACOG) – ATU, IBT Ark-Tex

Council of Governments – ATU, UFCW

Capital Area Rural Transit System (CARTS) – ATU, IBT, AFSCME Colorado

Valley Transit (CVT), Inc. – ATU

Community Action Council of South Texas (CACST) – ATU, UTU Community
Services (CS), Inc. – ATU

Golden Crescent Regional Planning Commission (GCRPC) – ATU, IBT, AFSCME Heart of Texas
Council of Governments (HOTCOG) – TWU

Panhandle Community Services (PCS) – ATU, UTU Public
Transit Services (PTS) – ATU

Rural Economic Assistance League (REAL), Inc. – ATU

South East Texas Regional Planning Commission (SETRPC) - ATU South Plains
Community Action Association (SPCAA) – UTU Southwest Area Regional Transit
District (SWARTD) – ATU, IBT Special Programs for Aging Needs (SPAN), Inc. –
ATU, IBT

West Texas Opportunities (WTO), Inc. – ATU