

Agreement Number: 17RPA-XX

Accounting Contract Number: XXXX

**PLANNING JOINT PARTICIPATION AGREEMENT
TO IMPLEMENT REGIONAL INTERMODAL PLANNING**

WHEREAS, the **Iowa Department of Transportation** (hereinafter called the DEPARTMENT) has elected to share certain intermodal transportation planning and programming responsibilities with local officials acting through regional planning affiliations; and

WHEREAS, the DEPARTMENT, has secured a grant from the Federal Transit Administration which includes funds originating under 23 U.S.C. 104 (b) and/or 49 U.S.C. 5305 (e) to support local intermodal transportation planning activities of regional planning affiliations; and

WHEREAS, the **Agency Name** (hereinafter called the AGENCY) has been designated by the general purpose units of local government to serve as the regional planning affiliation within region XX; and

WHEREAS, the AGENCY has adopted a Transportation Planning Work Program for State Fiscal Year (SFY) 2017, which has been reviewed and approved by the DEPARTMENT, and has requested that the DEPARTMENT fund those activities as described below:

Project Element	FTA Code	Federal Funds Ceiling	% Federal Participation
FHWA STP/STBG C/O – CFDA 20.205	44.31.81	\$ X	80%
FTA 5311 NEW – CFDA 20.509	44.24.00	\$ X	80%
FHWA SPR NEW – CFDA 20.205	44.32.81	\$ X	80%
FHWA STP/STBG NEW – CFDA 20.205	44.31.81	\$ X	80%
Total		\$ X	

NOW, THEREFORE, THE DEPARTMENT AND THE AGENCY HAVE AGREED THAT the AGENCY shall proceed with implementation of the work program, subject to all terms, conditions and obligations connected with the federal grant, and also subject to such policies, procedures and conditions as have been established by the DEPARTMENT and documented in Part II of this AGREEMENT.

BE IT FURTHER AGREED THAT the DEPARTMENT shall reimburse the AGENCY for implementing work program activities at the federal participation rate and subject to the federal funds ceiling shown above.

THIS AGREEMENT TO BE IN EFFECT from July 1, 2016, to June 30, 2017.

IN WITNESS WHEREOF, the parties hereunto have caused this AGREEMENT to be executed by their proper officials thereunto duly authorized as of the dates below indicated, in consideration of the mutual covenants, promises, and representations contained herein.

For the AGENCY:

For the DEPARTMENT:

Type signatory's name and title
Agency Name

Craig Markley, Director
Iowa Department of Transportation

date:_____

date:_____

PLANNING JOINT PARTICIPATION AGREEMENT
Part II

1. ROLE OF THE AGENCY

- A. The AGENCY shall conduct a comprehensive, continuing, cooperative transportation planning process for its study area. This process shall, at minimum, generate (or review and confirm) the following work products on an annual basis:
- i. Long-Range Transportation Plan (LRTP)
 - ii. Transportation Improvement Program (TIP)
 - iii. Public Participation Plan (PPP)
 - iv. Transportation Planning Work Program (TPWP)
 - v. Passenger Transportation Plan (PTP)
- B. The AGENCY shall recommend, for DEPARTMENT approval, the programming of certain federal transportation funds apportioned to the area by the DEPARTMENT. These shall include, but not be limited to, Surface Transportation Block Grant (STBG) funds as well as State Planning & Research (SPR) Funds generated under 23 U.S.C. 104(b) and Federal Transit funds generated under 49 U.S.C. section(s) 5303, 5304, 5305, 5307, 5339, 5310, and/or 5311.
- C. The AGENCY shall conduct special planning studies and/or technical assistance to transportation providers or local governments as may be determined beneficial.
- D. In metropolitan areas, the transportation planning activities shall be conducted to meet the standards set forth in 23 C.F.R. Part 450 and shall include additional tasks involving establishment and updating of:
- i. Metropolitan Area Planning Boundaries
 - ii. Federal Aid Urban Boundaries
 - iii. Federal Functional Classification

2. POLICY DIRECTION

- A. The AGENCY shall, in mutual agreement with participating local units of government, maintain a Transportation Policy Committee and for the MPOs a Transportation Technical Committee will be established. As for the RPAs, the Policy Committee can, at their discretion, establish a Transportation Technical Committee to provide assistance to the Policy Committee.
- B. The role of the Transportation Policy Committee shall be to (at a minimum):
- Meet on a quarterly basis
 - Prioritize and select projects for the four-year programming of the TIP
 - Assist the RPA/MPO staff in developing the LRTP, TIP, PPP, PTP and TPWP

- Direct the RPA/MPO staff in developing the LRTP, TIP, PPP, PTP and TPWP
- C. The Transportation Policy Committee shall, at minimum, include stakeholders within major units of general-purpose government within the planning area. It is recommended that other stakeholders, public or private, with transportation interests also be represented. The DEPARTMENT's District Transportation Planner, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) shall be considered non-voting members of this committee, unless otherwise determined by the AGENCY's by laws.
- D. The Transportation Technical Committee shall generally be made up of stakeholders capable of providing technical advice to the Policy Committee. These individuals may include representation from the following:
- Aviation
 - Business Sector
 - Cities (above 5,000 pop.)
 - Cities (below 5,000 pop.)
 - Conservation
 - Counties
 - Economic Development
 - Freight
 - Historic Preservation
 - Land Use
 - Transit

The DEPARTMENT's District Transportation Planner, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) shall be considered non-voting members of this committee.

3. ROLE OF THE DEPARTMENT

- A. The DEPARTMENT shall provide technical staff assistance to the extent deemed necessary to aid the AGENCY in carrying out the planning process.
- B. The DEPARTMENT will not reimburse ineligible work program activities. If products/activities are determined ineligible, the agency will be notified of the fact.

4. REPORTS

All reports, maps, and other documents completed as part of this AGREEMENT, other than draft documents exclusively for internal staff and committee use within the AGENCY, shall carry the following notation on the front cover of the title page containing the name of the AGENCY:

The preparation of this (report, document, etc.) was financed in part through federal funds provided by the U.S. Department of Transportation, Federal Highway Administration, and/or Federal Transit Administration.

5. OWNERSHIP OF DATA

Copies of the reports and documentation prepared initially for public distribution or for reporting under the terms of this AGREEMENT shall be made available for their intended purpose at no cost.

Originals of all documents including estimates, specifications, filed notes, investigations, studies, etc. which are instruments of service under the terms of this AGREEMENT are to be the joint property of the political jurisdictions and the governmental agencies participating in the transportation planning process, including the DEPARTMENT. Copies of such documents, including working documents, shall be made available to participants upon request for the cost of reproduction.

No reports, maps, or other documents produced in whole or in part under this AGREEMENT shall be the subject of an application for copyright by or on behalf of the AGENCY, except for the purpose of assuring proper attribution when materials are used by others.

6. SUBCONTRACTING

- A. The AGENCY shall not transfer or assign by subcontract, any part of the work funded under this AGREEMENT without prior written consent of the DEPARTMENT.
- B. Subcontracts executed in connection with the performance of work under this AGREEMENT must comply with the requirements of this AGREEMENT.
- C. Requests for qualifications, requests for proposals, and contracts related to work under this agreement must adhere to the following provisions from 49 CFR 26, as well as any additional provisions outlined by the DEPARTMENT.
 - i. Prompt Payment
 - (a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.
 - (b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

- (1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.
- (2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.
- (3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.
- (c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.
- (d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.
- (e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:
 - (1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.
 - (2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
 - (3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

ii. Good Faith Effort and Protecting Against Termination for Convenience

- (a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:
 - (1) Documents that it has obtained enough DBE participation to meet the goal; or
 - (2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.
- (b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:
 - (1) Award of the contract will be conditioned on meeting the requirements of this section;
 - (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
 - (i) The names and addresses of DBE firms that will participate in the contract;
 - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
 - (iii) The dollar amount of the participation of each DBE firm participating;
 - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
 - (vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
 - (3)(i) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section—
 - (A) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

- (B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.
 - (ii) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.
- (c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.
- (d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.
 - (1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.
 - (2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.
 - (3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
 - (4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.
 - (5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.
- (e) In a “design-build” or “turnkey” contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.
- (f)(1)(i) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its

own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

- (ii) You must include in each prime contract a provision stating:
 - (A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and
 - (B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.
- (2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.
- (3) For purposes of this paragraph, good cause includes the following circumstances:
 - (i) The listed DBE subcontractor fails or refuses to execute a written contract;
 - (ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
 - (iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
 - (iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
 - (v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
 - (vi) You have determined that the listed DBE subcontractor is not a responsible contractor;
 - (vii) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
 - (viii) The listed DBE is ineligible to receive DBE credit for the type of work required;
 - (ix) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
 - (x) Other documented good cause that you determine compels the termination of the DBE subcontractor.

Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

- (4) Before transmitting to you its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to you, of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise you and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), you may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.
- (g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.
- (h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.
- (i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

- (j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

iii. Contract Assurance

- (a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- (b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
 - (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible.

iv. Legal Remedies

- (a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.
- (b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually

performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

- (c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

7. FINANCIAL ACCOUNTABILITY

A. The AGENCY shall follow the Financial, Procurement and Documentation requirements set forth in 49 CFR 18 as well as 2 CFR 200 Subpart E – Cost Principles.

- No cost incurred by the AGENCY, or any of its subcontractors, prior to the effective date or after the ending date of this AGREEMENT will be eligible for reimbursement under this AGREEMENT.
- All costs to be reimbursed under this AGREEMENT shall be supported by properly executed payrolls, time records, invoices, vouchers, warrants, contracts, and any other support evidencing that these costs were specifically incurred and paid. All documentation of reimbursable costs shall be maintained for a period of three years following the final payment under this AGREEMENT.

B. The AGENCY is responsible for obtaining audits in accordance with the Single Audit requirements as prescribed in 2 CFR 200 Subpart F.

- The AGENCY shall be responsible for establishing and maintaining a set of accounts to which all planning-related costs and revenues are recorded so that they may be clearly identified, easily traced, and substantially documented.
- All accounting practices applied and all records maintained shall be in accordance with generally accepted accounting principles and practices.

8. PAYMENT REQUESTS

A. The AGENCY shall request reimbursement for the federal share of eligible costs incurred in carrying out this AGREEMENT on a quarterly or monthly basis.

- B. Payment requests shall be submitted to the DEPARTMENT's assigned District Transportation Planner, and shall be accompanied by a progress report, in a format specified by the DEPARTMENT, showing progress on implementation of work elements set forth in the TPWP.
- C. The final payment request under this AGREEMENT shall be submitted to the DEPARTMENT's assigned District Transportation Planner no later than 30 days following the expiration date of this AGREEMENT or by a date determined by the DEPARTMENT's Office of Finance.

9. PAYMENTS

- A. The DEPARTMENT, upon acceptance of the payment request and progress report, shall reimburse the AGENCY for the federal share of eligible costs to the ceiling limits established on the cover page of this AGREEMENT.
- B. The DEPARTMENT may, at its discretion, withhold payment(s) under this AGREEMENT if the AGENCY is not current in its submission of planning documents or reports to the DEPARTMENT or if it has failed to pay any invoice from the DEPARTMENT for overpayment of planning funds determined based on audit exceptions to AGENCY claims.

10. NONDISCRIMINATION

- A. In connection with the execution of this agreement, the AGENCY shall not discriminate against any employee or applicant for employment because of race, age, disability, religion, color, sex, or national origin. The AGENCY shall take affirmative action to insure that applicants are employed without regard to their race, age, disability, religion, color, sex, or national origin. Such actions shall include, but not be limited to the following: employment, promotion, demotion, or transfer, recruitment, or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, selection for training (including apprenticeship), procurements of materials, and leases of equipment.

The AGENCY shall not participate either directly or indirectly in prohibited discrimination.

- B. The AGENCY agrees to comply with the provisions of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and applicable Federal regulations relating thereto, issued by the U.S. Department of Transportation (49 CFR 27 and 49 CFR 37), prohibiting discrimination against otherwise qualified individuals with disabilities under any program or activity receiving federal financial assistance covered by this AGREEMENT.

- C. The AGENCY agrees to ensure that disadvantaged business enterprises (DBE) as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this AGREEMENT. The AGENCY shall provide the DEPARTMENT with DBE information needed to prepare the State DBE goal and bi-annual reports.

11. STATUS OF EMPLOYEES

It is agreed that any and all employees of either party, while engaged in the performance of any work or services required or provided for herein to be performed by that party, shall not be considered employees of the other party, and that any and all claims that may or might arise under the Workers Compensation Act of the State of Iowa on behalf of said employees, while so engaged, and any and all claims made by third parties as a consequence of any act or omission on the part of said employees, rendered herein, shall in no way be the obligation or responsibility of the other party.

12. INTEREST/PROHIBITED INTEREST

- A. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising from it.
- B. No member, officer, or employee of a local public body during their tenure or for one year thereafter shall have any interest, direct or indirect, in this contract.

13. RENEWAL, RENEGOTIATION, AND MODIFICATION

The DEPARTMENT or the AGENCY may, from time to time, request changes in the scope of services and/or the time of performance. Such changes, including any increase in the amount of compensation to the AGENCY, which are mutually agreed upon by and between the DEPARTMENT and the AGENCY, shall be addressed through written revisions to this AGREEMENT.

14. TERMINATION OF THIS AGREEMENT

- A. This AGREEMENT may be terminated before the completion date by either the DEPARTMENT or the AGENCY. Termination shall be effective 30 days following receipt of written notice. Prior to the termination date, the AGENCY shall prepare and deliver one reproducible copy of a report summarizing the results of the work performed to date. The AGENCY shall be reimbursed for costs incurred as of the effective termination date, as provided in Sections 8-10 of this AGREEMENT.

- B. (For AGENCIES outside metropolitan areas only) All transportation planning and programming requirements not completed by the AGENCY may be completed by the DEPARTMENT. If this happens, any proposed projects from the AGENCY's planning area will compete for funding with any other proposed projects in the state when the State Transportation Improvement Program is developed.

15. NONPERFORMANCE

If the AGENCY fails to complete the planning and programming tasks outlined in this AGREEMENT during the AGREEMENT period or agreed upon extension, the AGENCY may be considered in breach of contract. The DEPARTMENT may withhold reimbursement from the AGENCY. The AGENCY may also be subject to repayment of planning funds based on the final audit of AGENCY records.

16. CONFORMANCE WITH FTA MASTER AGREEMENT

This AGREEMENT is in part funded through a grant from the Federal Transit Administration and, as such, is subject to the terms and conditions of the FTA's Master Agreement.

17. COMPLIANCE WITH LAWS

- A. The AGENCY agrees to comply with all Federal, State and local laws, ordinances and resolutions applicable to the execution of the work covered by this AGREEMENT.
- B. It is mutually understood between the parties that in transportation matters the final authority vested in the DEPARTMENT by federal and state statutory and case law shall not be affected by this AGREEMENT.

18. BONUS AND COMMISSION PROHIBITION

By execution of the AGREEMENT, the AGENCY 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 financing hereunder.

19. ADDITIONAL AGREEMENT PROVISIONS

Some miscellaneous general provisions not included elsewhere in the AGREEMENT are as follows:

A. ENTIRE AGREEMENT

This agreement expresses the entire AGREEMENT between parties and no representations, promises or warranties have been made by either of the parties that are not fully expressed herein concerning this AGREEMENT.

B. SAVINGS CLAUSE

If any provision of this AGREEMENT is held invalid, the remainder of the AGREEMENT shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

C. WORDING

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D. SUCCESSORS AND ASSIGNEES

It is further understood that this AGREEMENT and all contracts entered into under the provisions of this AGREEMENT shall be binding upon the DEPARTMENT and AGENCY and their successors and assignees.