

**MICHIGAN DEPARTMENT OF TRANSPORTATION**

**CITY OF MACKINAC ISLAND**

**AMENDMENT**

This Amendatory Agreement is made and entered into between the Michigan Department of Transportation (MDOT) and the City of Mackinac Island (AGENCY) for the purpose of amending Master Agreement No. 2022-0090, dated October 1, 2021 (AGREEMENT).

**Recitals:**

The AGREEMENT makes federal and/or state grant funds available to the AGENCY for the costs of eligible projects that promote or benefit public transportation. The AGREEMENT sets forth the terms and conditions that govern project authorizations issued thereunder for such eligible projects; and

The parties desire to revise certain provisions in the AGREEMENT to reflect updates in the Federal Transit Administration (FTA) guidelines and requirements and to provide clarification; and

The parties also desire to extend the program years included under the AGREEMENT by one year to allow project authorizations to be issued for one additional program year.

The parties agree that the AGREEMENT be and that the same is amended as follows:

1. In order to provide clarification about the use and disposition of facilities, revenue vehicles, and equipment, Section 15 and Section 22 of the AGREEMENT, respectively, are amended to read as follows:

**“15. USE AND DISPOSITION OF FACILITY/REVENUE VEHICLES/  
EQUIPMENT**

The AGENCY agrees that the facility/revenue vehicles/equipment will be used for the provision of public transportation service for the duration of its useful life and, if funded with FEDERAL and MDOT funds, will be used in accordance with FEDERAL procedures as set forth in 49 CFR Part 18. If, during the period of its useful life, any facility/revenue vehicles/equipment is not used in said manner or is withdrawn from public transportation service, the AGENCY will immediately notify MDOT in writing. If FTA-funded real property is no longer needed for any transit purpose, the AGENCY is required to prepare or update an excess real property utilization plan. The plan should identify and explain the reason for the

excess property and plans to use or dispose of the excess property. If land was donated by an agency for a facility project and the facility becomes excess property, the land is considered part of the excess property included in the utilization plan. Unless the FTA and the AGENCY agree otherwise, the excess real property inventory and updated excess property utilization plan should be retained by the AGENCY and made available upon request and during an FTA review.

During the period of this Agreement, the AGENCY will maintain the facility/revenue vehicles/equipment for the period of the useful life of such equipment. Maintenance will conform to the manufacturer's recommendations as to service and service intervals for such equipment. In addition, the AGENCY is required to submit a vehicle maintenance plan or plan revision, as directed by MDOT, for review and approval by MDOT. This vehicle maintenance plan, at a minimum, will include all of the components listed in MDOT's current "Preventive Maintenance Manual," which can be found at Maintenance Manual 2020. If the AGENCY revises its vehicle maintenance plan, said plan will be submitted for review and approval by MDOT. The AGENCY will maintain supporting records documenting such maintenance. Representatives of MDOT will have the right to conduct periodic inspection for the purpose of confirming proper maintenance pursuant to this section. Such inspection by MDOT does not relieve the AGENCY of its obligations hereunder, nor is such inspection by MDOT to be construed as a warranty as to the sufficiency of the maintenance but is undertaken for the sole use and information of MDOT. MDOT may withhold funds from the AGENCY for failure to maintain PROJECT equipment pursuant to this section until such time as the AGENCY meets the proper maintenance requirements as determined by MDOT.

Facility/revenue vehicles/equipment purchased under this Agreement may, at the discretion of MDOT, be incorporated into a new or consolidated public transportation service at the time such service is implemented.

At such time as the revenue vehicles/equipment have exceeded their useful lives, the AGENCY, with prior notification to MDOT, will dispose of said equipment in accordance with MDOT and/or FEDERAL procedures. Beginning November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) changed the provision for transit asset disposition. Effective October 1, 2024, additional changes and clarifications were made to the disposition of vehicles and equipment. Per 2 CFR 200.313 and 200.314, if vehicles or equipment are sold for Ten Thousand Dollars (\$10,000.00) or less, the recipient may retain the full proceeds from the disposition. However, per 49 USC 5334(h)(4)(B), if vehicles or equipment are sold for more than Ten Thousand Dollars (\$10,000.00), the recipient may only retain Five Thousand Dollars (\$5,000.00) plus any percentage of local share in the original award. The remaining FEDERAL share will be returned to the FTA and the remaining State share will be returned to MDOT. Any expenses incurred from the sale of the vehicle or equipment may not be deducted from the reimbursement

for the FEDERAL or State share of sale proceeds. MDOT will bill rural agencies quarterly for both the FEDERAL and State shares. Urban agencies are responsible for returning the FEDERAL share to the FTA, and MDOT will bill urban agencies for the State share.

Agencies that receive FEDERAL funding through MDOT agree to give MDOT a security interest in any revenue vehicles purchased pursuant to the terms of this Agreement. MDOT will retain a security interest in the revenue vehicles until the terms of this section have been met.

The AGENCY agrees and warrants that it will not allow any encumbrance, lien, security interest, mortgage, or any evidence of indebtedness to attach to or be perfected against any revenue vehicles/equipment until all of its duties, obligations, and responsibilities are satisfied as required herein.

The incidental use of FEDERAL/state-funded revenue vehicles/equipment or facilities for non-public transportation use cannot interfere with or detract from the provision of the public transportation service for which the revenue vehicles/equipment and/or facilities were intended or shorten the useful life of the equipment or facilities. The costs of any incidental use are ineligible for state or FEDERAL operating assistance and may require a state-approved cost allocation plan.

(Please see Section 22 for additional requirements for the Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program.)”

**“22. THE SECTION 5310 ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM**

**a. Use and Disposition of Facility/Revenue Vehicles/Equipment**

In addition to the requirements in Section 15, the AGENCY agrees that the facility/revenue vehicles/equipment will be used for the provision of public transportation service primarily for the elderly and persons with disabilities for the duration of its useful life and in accordance with the provision approved in the annual application and this Agreement.

**b. Lease of Project Equipment**

The AGENCY may lease the revenue vehicles/equipment to any other agency with the prior written approval of MDOT. The AGENCY will maintain or require the lessee to maintain the insurance provisions of Section 16 above. Any such lease will contain all applicable provisions of this Agreement.”

2. In order to reflect the change to the heading of Section 15 of the AGREEMENT, line 15 of the Table of Contents is amended to read as follows:

“Section 15: Use and Disposition of Facility/Revenue Vehicles/Equipment”

3. In order to extend Public Transportation Management System (PTMS) requirements to any subsequent programs, Section 18(a)(ii), Section 19(a), and Section 23(a) of the AGREEMENT, respectively, are amended to read as follows:

“[18a]ii. Prior to requesting reimbursement, the AGENCY may be required to enter data into its vehicle, equipment, and/or facility inventories in the Public Transportation Management System (PTMS) or subsequent programs. The AGENCY must enter the following information into PTMS or subsequent programs:

- (a) the required information for revenue vehicles into the vehicle inventory;
- (b) equipment procurements of Five Thousand Dollars (\$5,000.00) or more into the equipment inventory if MDOT-administered FEDERAL funds were used for the purchase;
- (c) new facilities into the facility inventory;
- (d) facility improvements of Five Thousand Dollars (\$5,000.00) or more into the facility inventory if MDOT-administered FEDERAL funds were used in the projects.”

“[19]a. The AGENCY must generate a quarterly operating assistance report in PTMS or subsequent program.”

“[23]a. **Milestone Reports**

The AGENCY will prepare and submit to MDOT milestone reports ten (10) days after the end of each quarter in PTMS or subsequent programs. Upon completion of the PROJECT deliverables, the AGENCY must submit to MDOT prior to the final PROJECT payment a comprehensive summary close-out report on the results of the PROJECT, the conclusions reached, and the methods used.”

4. In order to update payment information for operating programs, Section 19(c) of the AGREEMENT is amended to read as follows:

“[19]c. Up to one-quarter (1/4) of the funds provided by the State of Michigan and/or State of Michigan administered FEDERAL funds set forth in the PROJECT AUTHORIZATION for the Section 5311 Operating Program and the Section 5310 New Freedom Operating Program will be payable at the end of each quarter contingent upon the receipt of any outstanding reports from the previous quarter as required by this Agreement. For the Specialized Services Program and the Section 5311 Job Access Reverse Commute (JARC) Operating Program, the

AGENCY will be reimbursed up to the amount earned and reported on the Operating Assistance Report (OAR) each quarter not to exceed the amount of the awarded PROJECT AUTHORIZATION.”

5. In order to reflect Federal Transit Administration changes to the Section 5311 Rural Area Operation Program, the Section 20 heading is amended to read, “20. THE SECTION 5311 RURAL AREA OPERATING PROGRAM”; and Section 20(d) of the AGREEMENT is amended to read as follows:

“d. For the Section 5311 Operating Program, payments are capped at one-quarter (1/4) of the amount of the initial award. MDOT will withhold one-twelfth (1/12) of the total authorization amount until the reconciled OAR receives final approval from MDOT. MDOT may reduce a payment if a quarterly report indicates that the level of service is lower than originally budgeted. No payments will be made until MDOT is authorized to disburse the FEDERAL funds. For the Section 5311 JARC Program, the AGENCY will be reimbursed up to the amount earned based on eligible expenses and amounts reported on the OAR each quarter, not to exceed the amount of the awarded PROJECT AUTHORIZATION.”

6. In order to reflect the change to the heading of Section 20 of the AGREEMENT, line 20 of the Table of Contents is amended to read as follows:

“Section 20. The Section 5311 Rural Area Operating Program”

7. In order to provide a timeline for Agencies to submit required information to MDOT, Section 28(c) of the AGREEMENT is amended to read as follows:

“c. **No CPA Audit Required**

Agencies expending less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in FEDERAL funds that are not FORMULA RECIPIENTS are not required to have a CPA audit performed but must submit the following information to MDOT within nine (9) months after the end of the audit period:

- i. A statement advising that a single audit is not required.
- ii. The applicable fiscal year.
- iii. The amount of FEDERAL funds spent.
- iv. The name(s) of the MDOT federal programs.
- v. The Assistance Listing (formerly known as the Code of Federal Domestic Assistance).”

8. In order to restore the Unfair Labor Practices language to MDOT’s standard language, Section 35 of the AGREEMENT is amended to read as follows:

“35. **UNFAIR LABOR PRACTICES**

In accordance with 1980 PA 278, MCL 423.321 *et seq.*, the AGENCY, in the performance of this Agreement, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. MDOT may void this Agreement if the name of the AGENCY or the name of a subcontractor, manufacturer, or supplier utilized by the AGENCY in the performance of this Agreement subsequently appears in the register during the performance of this Agreement.”

9. In order to extend the program years included under the AGREEMENT by one (1) year, Section 41 of the AGREEMENT is amended to read as follows:

**“41. TERM OF AGREEMENT**

The effective date of this Agreement is October 1, 2021, and the Agreement will continue in effect until the last obligation between the parties under this Agreement has been fulfilled. The Agreement will include PROJECT AUTHORIZATIONS for program years 2022 through 2026.

When the funding of a PROJECT AUTHORIZATION is contingent upon the award of the matching FEDERAL grant for MDOT and FTA funds, MDOT will allow costs to be incurred for PROJECTS in advance of FEDERAL and MDOT approval to be apportioned in fiscal years 2022 through 2026, including carryover amounts, subject to allowance by the FEDERAL agency and the following: (1) use of this pre-award spending authority must meet all of the conditions and requirements as may be set forth in the Federal Register, and (2) costs incurred for the PROJECT that are not approved by the FEDERAL agency or MDOT will not be eligible for reimbursement and will remain the responsibility of the AGENCY.

When a PROJECT AUTHORIZATION contains only state funds or only state and local funds, MDOT will allow costs to be incurred by the AGENCY for the PROJECT prior to award of the PROJECT AUTHORIZATION. If costs are incurred for a PROJECT that are not approved by MDOT, those costs will not be eligible for reimbursement and will remain the responsibility of the AGENCY. If for any reason the PROJECT AUTHORIZATION does not get awarded, MDOT will not be responsible for expenses that have been incurred.

MDOT will not pay or be responsible for any costs incurred by the AGENCY subsequent to the expiration of the PROJECT AUTHORIZATION.

PROJECT AUTHORIZATIONS may be issued under this Agreement beginning October 1, 2021. The term for a PROJECT AUTHORIZATION will be indicated on that PROJECT AUTHORIZATION.”

10. All other provisions of the AGREEMENT, except as herein amended, remain in full force and effect as originally set forth.
11. The AGENCY waives any and all claims it has or may have against MDOT that arise out of the need to amend and/or extend the AGREEMENT.
12. This Amendatory Agreement will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the AGENCY and MDOT and upon adoption of a resolution approving said Amendatory Agreement and authorizing the signature(s) thereto of the respective representative(s) of the AGENCY, a certified copy of which resolution will be sent to MDOT with this Amendatory Agreement, as applicable.

CITY OF MACKINAC ISLAND

By: \_\_\_\_\_  
Authorized Signer

MICHIGAN DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Title: Department Director

