

FY 2021 AND 2022 AGREEMENT

**CITY OF NORMAN – TRANSIT ELEMENTS
SURFACE TRANSPORTATION BLOCK GRANT**

**FHWA STBG FUNDS: Proj No.: STP – 214E (123) AG, JP No.: 34755(06)
CFDA NUMBER: 20.205 (HIGHWAY PLANNING AND CONSTRUCTION)**

I PARTIES AND PURPOSE

This AGREEMENT made and entered into this 27 day of June, 2022, by and between the Oklahoma Department of Transportation and the City of Norman. The above-cited parties to this AGREEMENT will hereinafter be referred to individually as the DEPARTMENT and CONTRACTOR respectively or, collectively as the PARTIES. Frequent reference will be made in this AGREEMENT to the Federal Highway Administration and the Federal Transit Administration, United States Department of Transportation, hereinafter referred to as FHWA and FTA respectively.

The purpose of this AGREEMENT is to provide for DEPARTMENT pass through funding of the Surface Transportation Block Grant (STBG) activities within the City of Norman Area. The intent of this AGREEMENT is to state the terms, conditions and mutual understanding of the parties as to the purchase and use replacement vehicles and associated equipment for the CONTRACTOR.

II EFFECTIVE DATE

The provisions of this AGREEMENT shall become effective for two years on the day this Federal-aid contract is executed by both parties. The parties hereto may, by supplemental Agreement, extend the contracted services for an additional one (1) year period. Any supplemental Agreement shall provide for such amendments to the terms of this Agreement as required and shall be executed with the same formality as this Agreement. This AGREEMENT may be terminated earlier upon thirty (30) days written notice by either party as provided for in Section XIII of this AGREEMENT.

III UNIFIED PLANNING WORK PROGRAM (UPWP)

The specific activities to be conducted and financed during the AGREEMENT period are prescribed in the Association of Central Oklahoma Governments (ACOG) FY 2021 and 2022 UPWP. The UPWP details the tasks, work responsibilities, costs and funding sources of each activity to be undertaken within the TMA (Transportation Management Area). The purpose and product of the UPWP will be a viable up-to-date twenty-year comprehensive multi-modal transportation plan for the ACOG MPO TMA. Approval of the UPWP by the PARTIES, the ACOG MPO Policy Committee, and FHWA will constitute acceptance of the UPWP as a part of this AGREEMENT, subject to the financing provisions of Section IV herein.

IV FINANCING

The DEPARTMENT presently has funds available, allocated through FHWA, which may be used to facilitate Transit Procurement. Contingent upon the continued availability of such funds, the DEPARTMENT agrees to participate in the purchase and use of replacement vehicles to be conducted within the ACOG MPO TMA boundary as detailed in the UPWP. The PARTIES agree that the financing of the CONTRACTOR as set forth in this AGREEMENT is as follows:

FHWA STBG Funds for FY 2021* **\$ 468,222.00**

*Includes procurement of 1 – 35' Transit Bus

FHWA STBG Funds for FY 2022* **\$ 491,633.00**

*Includes procurement of 1 – 35' Transit Bus

Such funds shall be on the basis of direct and indirect actual auditable cost as stated in 23 CFR Chapter 1, §420.113 and the provisions of the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 Code of Federal Regulations (CFR) 200 Subpart E. The direct costs shall be limited to the equipment rental, equipment purchase, authorized travel, office supplies, printing costs, personnel salaries, legal fees, personnel selection and placement, personnel relocation expenses, office rent and other necessary expenses directly associated with actual work performed under this AGREEMENT. Allowable indirect cost will be determined in accordance with 2 CFR 200.414.

The financing provided by this AGREEMENT is for eighty percent (80%) of total actual auditable costs for the FHWA STBG funds. A twenty percent (20%) match will be funded by the CONTRACTOR. If costs exceed the amount of funding allocated, then the difference will be funded by CONTRACTOR.

V AUDIT

As part of this AGREEMENT, CONTRACTOR agrees to provide the DEPARTMENT with a Single Audit performed in accordance with the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR 200 Subpart F to ensure compliance with federal and state laws, regulations and provisions of the AGREEMENT. The Single Audit will be performed by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. If federal or state exceptions are found, the PARTIES will resolve the outstanding issues as provided under Section VI.

VI DISPUTES RELATED TO FINANCES

In the event of disagreement between the PARTIES relative to the eligibility of or the DEPARTMENT's financial participation in any work item or items contained in the UPWP, the details of such disagreement shall be forwarded to both the Chief Engineer/Deputy Director of the Department and the City Manager of the City of Norman who jointly shall make the final determination after consultation with FHWA.

VII PAYMENT

Payments for services described in the UPWP and this AGREEMENT shall be disbursed by the DEPARTMENT on the basis of documented payments from the CONTRACTOR showing the total actual costs incurred.

VIII PROGRAM EQUIPMENT PROCUREMENT

Unless provided and budgeted, equipment to be purchased, constructed or rented in excess of \$1,000 dollars and purchased with DEPARTMENT funds, requires DEPARTMENT review and approval. The CONTRACTOR shall provide a detailed list identifying each piece of equipment and/or instrument being requested for purchase.

All PROGRAM equipment, materials and services financed in whole or in part pursuant to this agreement shall be purchased by, and in the name of, the CONTRACTOR in accordance with applicable State law and standards set forth in standards set forth in the U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. part 200 and (FTA Circular 4220.1F, as amended). PROGRAM equipment, materials and services shall be purchased in conformity with the latest approved PROGRAM budget, and stated within in the PROGRAM Application.

When one of the PARTIES has contracted out a portion of its federally funded operation, or has passed through funding to a subcontractor, competitive procurement requirements shall apply to the PARTY and/or subcontractor activities. In such circumstances, the procurement process of the PARTIES/subcontractor should meet all state and federal requirements. Furthermore, the DEPARTMENT will maintain complete oversight to ensure both PARTIES/subcontractor compliance. This requires written procurement procedures, overseeing selected procurement processes, and auditing the PARTIES/ subcontractor as the DEPARTMENT deems necessary.

The CONTRACTOR will be required, unless otherwise authorized in writing by the DEPARTMENT, to comply with all state and federal procurement requirements for procurement of vehicles and other equipment with the exception of "Start Up" costs for items such as vehicle signage, tax, title and miscellaneous items costing ONE HUNDRED DOLLARS (\$100.00) or less. Unauthorized procurements **will not** be reimbursed by the DEPARTMENT. Bid specifications will be developed by the DEPARTMENT for various types of vehicles and other equipment as requested.

The CONTRACTOR must submit the following documents to the DEPARTMENT's Office of Mobility and Public Transit (OMPT):

1. City of Norman Board approved and FTA compliant Procurement Policy document
2. PTASP (for Bus Operations)
3. TAM Plan
4. Executed FFY 21 & 22 Certification of Assurances
5. Proof of Self-Insured Status for Transit Vehicles
6. Vehicle Maintenance Plan
7. Title VI Plan
8. EEO Plan (If applicable)
9. ADA Paratransit Plan (If applicable)
10. Disadvantaged Business Enterprise (DBE) Plan

Upon the procurement of the vehicles identified in the original agreement, the CONTRACTOR will contact the OMPT to provide the listed vehicle(s) information as follows:

1. Vendor Invoice
2. Vehicle Tag number
3. Agency Vehicle number (if applicable)
4. Vehicle Make & Model
5. Vehicle Identification Number
Vehicle Seating Capacity

OMPT will make biannual visits to check vehicle status, preventive maintenance log, and review use of vehicle data until such time that the vehicle(s) reach its useful life and is disposed of by the Contractor.

IX USE AND DISPOSAL OF PROPERTY

PROGRAM vehicles shall be used for the provision of public transportation services. The CONTRACTOR and/or subcontractor must obtain written approval from the DEPARTMENT in any situation where the PROGRAM service is to be discontinued.

In the event that any program facility or equipment is used in an improper manner or is used for any unapproved activity, the CONTRACTOR and/or subcontractor shall be in default of this AGREEMENT and shall be subject to forfeiture of further financial assistance and may be required to reimburse Federal funds used to purchase said equipment and the Federal funds used for related expenses.

The disposal of all capital assets must be conducted through a public auction. The CONTRACTOR shall use the Department of Central Services Surplus Auction process, or a public auction.

Upon notification from the CONTRACTOR of the disposal of the vehicle(s), the DEPARTMENT's OMPT will remove the asset from its transit asset database and close out the agreement.

X VEHICLE REGISTRATION

The CONTRACTOR will, at the time of vehicle registration, name the Oklahoma Department of Transportation as first lien holder. A scanned copy of the title showing the DEPARTMENT as the lien holder shall be submitted to the OMPT within five (5) business days of receiving the title.

XI RECORDS

The CONTRACTOR hereby certifies that all records shall be maintained in accordance with generally accepted accounting principles and shall conform to the standards set forth in the, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR 200. Such records will be made available for inspection by the DEPARTMENT, at all reasonable times at the respective offices during the contract period and for three years after the date of the final payment of Federal funds to the DEPARTMENT with respect to the study. Copies of such records shall be furnished at cost to the DEPARTMENT.

XII AMENDMENTS OR MODIFICATION OF AGREEMENT

No changes, revisions, amendments or alterations in the manner, scope or type of work or compensation to be paid by the DEPARTMENT shall be effective unless reduced to writing and executed by the PARTIES with same formalities as are observed in the execution of this AGREEMENT.

XIII TERMINATION OF AGREEMENT

This AGREEMENT was entered into by the PARTIES because of their mutual accord that the comprehensive, continuing, and cooperative transportation planning process provided herein was necessary. Either PARTY may terminate its interest and its obligation under this AGREEMENT by giving thirty (30) days notice in writing to the other PARTY, it being understood that such termination may be adverse to the interests of the other PARTY. In the event of such termination, CONTRACTOR shall deliver at cost to the DEPARTMENT all items mentioned in Section XI of this AGREEMENT within thirty (30) calendar days following the effective termination date.

XIV GOVERNMENT WIDE NONPROCUREMENT SUSPENSION AND DEBARMENT

The CONTRACTOR agrees to comply, and assures the compliance of each third party contractor and sub-recipient, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," and in compliance of 2 CFR 200.

In order to protect the public interest, the "Federal-aid Eligibility Certification" (Exhibit A) shall be signed by the Chief Administrative Officer of the CONTRACTOR as to current history regarding suspension, debarment, ineligibility, voluntary exclusion, criminal convictions, or civil judgments involving fraud or official misconduct of himself/herself and any person associated in the administration and management of this federally funded project.

XV RESPONSIBILITY FOR CLAIMS AND LIABILITY

The CONTRACTOR and/or its consultants shall save harmless the DEPARTMENT, FHWA and FTA from all suits, actions, or claims brought on account of any injuries or damages sustained by any person or property in consequence of any negligent acts or misconduct by the City of Norman and/or its consultants or the negligent acts or misconduct of their subcontractors, agents, or employees arising from this AGREEMENT or on account of any claims or amount recovered for an infringement of patent, trademark, or copyright, or from any claim or amounts arising or recovered under the Workman's Compensation Laws or any other laws. The CONTRACTOR and/or its consultants shall not be released from such responsibility until all claims have been settled and suitable evidence to the effect furnished the DEPARTMENT.

XVI COVENANTS AGAINST CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person specifically to solicit or secure this AGREEMENT, and that it has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this AGREEMENT without liability, or at its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

XVII PRIOR UNDERSTANDING

This AGREEMENT incorporates and reduces to writing all prior understanding, promises, agreements, commitments, covenants or conditions, and constitutes the full and complete understanding and contractual relationship of the CONTRACTOR.

XVIII GOVERNING LAWS AND REGULATIONS

The CONTRACTOR and its subcontractors shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any nature affecting the performance of this AGREEMENT including workman's compensation laws, minimum and maximum salary and wage statutes and regulations. When required, the CONTRACTOR shall furnish the DEPARTMENT with satisfactory proof of its compliance therewith.

This AGREEMENT shall be governed and construed in accordance with the laws of the State of Oklahoma and the applicable rules, regulation, policies and procedures of the Oklahoma Transportation Commission.

XIX BINDING EFFECT

This AGREEMENT shall be binding upon and inure to the benefit of the DEPARTMENT and the CONTRACTOR and shall be binding upon their successors and subject to the limitation of Oklahoma Law.

XX NOTICES

All notices, demands, requests, or other communications, which may be or are required to be given, served or sent by either party to the other pursuant to the AGREEMENT shall be in writing and shall be deemed to have been properly given or sent:

- (1) if intended for the DEPARTMENT, by electronic transmission, mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to the state at:

Department of Transportation
Strategic Asset & Performance Management Division
200 Northeast 21st Street
Oklahoma City, Oklahoma 73105-3204

- (2) if intended for the CONTRACTOR, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to the City of Norman at:

Darrel Pyle, City Manager
City of Norman – Public Works Department
201 West Gray, Bldg. A
Norman, Oklahoma 73069

XXI SEVERABILITY

If any provision, clause or paragraph of this contract or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this contract, which is not affected by the determination. The provisions, clauses or paragraphs and any documents incorporated by reference are declared severable and the invalidation of any such provision, clause, paragraph or document incorporated by reference shall not affect the remaining provisions, clauses, paragraphs and documents incorporated by reference which shall continue to be binding and of full legal efficacy.

IN WITNESS WHEREOF, the Mayor of the City of Norman City Council has set his/her hand and seal this
day of June, 2022 and the Deputy Director of the Oklahoma Department of Transportation
has set his/her hand and seal this 27 day of _____
June, 2022.

CITY OF NORMAN:

Reviewed and Approved
as to Legality and Form:

Barb Bode 6/3/22
Attorney Date



[Signature] 6/14/22
Mayor Date

Attest:

Brenda Hall
City Clerk Date

City of Norman – Public Works Department
201 West Gray, Bldg. A
Norman, Oklahoma 73069

Federal Tax ID Number: 73-6005350

OKLAHOMA DEPARTMENT OF TRANSPORTATION:

Recommended:

[Signature] 06/20/2022
Jared Schwennesen Date
Multimodal Division Manager

David Allen Miley 06/20/2022
David Miley Date
General Counsel

Reviewed and Approved
as to Legality and Form:

[Signature] 06/27/2022
Dawn Sullivan Date
Deputy Director

EXHIBIT A

FEDERAL-AID ELIGIBILITY CERTIFICATION

The undersigned hereby certifies to the best of his or her knowledge and belief:

- (1) That he or she is the fully authorized agent of the Prospective CONTRACTOR in this project which involves, Federal funding and has full knowledge and authority to make this certification.
- (2) That, neither the Prospective CONTRACTOR nor any person associated therewith in the capacity of director, officer, manager, auditor or accountant, nor any person in a position involving the administration of federal funds:
 - a. Is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; and
 - b. Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; and
 - c. Has a proposed debarment pending; and
 - d. Has been indicted, convicted, or had a civil judgment rendered against any of the afore-mentioned by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years, except:

If none so state by entering the word none:

None



City Manager
City of Norman

6-7-22

Date

STATUS VERIFICATION SYSTEM AFFIDAVIT

State of Oklahoma)
)
County of Cleveland)

Affiant, Darrel Pyle , of lawful age, and having been first duly sworn, on oath states:

1. Affiant is the duly authorized agent of the City of Norman (contractor). Affiant is fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and has been personally and directly involved in the procurement of this contract;
2. That the Contractor has registered and fully participates in the Status Verification System, as required by Title 25 O.S. §1313(B)(1), to verify the work eligibility status of all new employees of the Contractor.

FURTHER AFFIANT SAITH NOT.



Affiant

6-7-22

Date

Darrel Pyle

Printed Name

City Manager

Title

STATUTORY AFFIDAVIT

State of Oklahoma)
)
County of Cleveland)

Affiant, Darrel Pyle, of lawful age, and having been first duly sworn, on oath states:

1. That I am the duly authorized agent of the City of Norman (contractor) to submit the attached contract to the State of Oklahoma. I am fully aware of the facts and circumstances surrounding the making of the contract to which this statement is attached and have been personally and directly involved in the procurement of that contract, 74 OS §85.22.
2. That neither the Contractor nor anyone subject to the Contractors direction or control has paid, given, or donated or agreed to pay, give, or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract to which this statement is attached, 74 OS §85.22.
3. That no person who has been involved in any manner in the development of this Agreement while employed by the Oklahoma Department of Transportation shall be employed to fulfill any of the services provided for under this contract, 74 OS §85.42.
4. That, to the best of my knowledge and belief, the Contractor has not previously entered into a contract with the Oklahoma Department of Transportation or any other agency of the State of Oklahoma which would result in a substantial duplication of the services or final product acquired by this contract, 74 OS §85.41.

FURTHER AFFIANT SAITH NOT.



Affiant

Darrel Pyle

Printed Name

6-7-22

Date

City Manager

Title