

**FEDERAL SECTION 5311(f)
INTERCITY BUS PROGRAM APPLICATION PACKAGE
For State Fiscal Year 2024 - 2025**

**Office of Public Transit
South Carolina Department of Transportation
955 Park Street
Columbia, South Carolina 29201**

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ANNUAL 5311(f) APPLICATION FOR FUNDING

STATE FISCAL YEAR:

-

APPLICATION FOR:

- Rural Transit Program (Section 5311(f) No Matching Funds)

APPLICATION CHECKLIST:

The following documents must be submitted in as part of the application process

- Application Part 1: Project Information Document**
- Application Part 2: Narrative Description of System**
- Application Part 3: Budget Information**
- Application Part 4: Supporting Documentation**
 - Copy of Public Hearing Notice with scanned copy of publication “tear sheet”
 - Public Hearing Minutes (indicating minutes of meeting or no meeting requested)
 - Asset Management & Property Inventory Form
- Standard Form 424 Application for Federal Assistance submitted to OPT**
- Certifications and Assurances**

APPLICATION PART 1:

PROJECT INFORMATION

PROJECT INFORMATION:

1. Agency Legal Name

Federal Tax ID Number:

UEI#:

SCEIS Vendor ID:

Web Site Address (if available):

Authorized Official's Name:

Title:

E-mail:

Administration Physical Address:

City:

Zip Code

Phone:

FAX:

Operations Physical Address:

City:

Zip Code

Phone:

FAX:

APPLICATION PART 2:

NARRATIVE DESCRIPTION OF SYSTEM

(Attach any support documents/materials at the end of this application)

SYSTEM DESCRIPTION

1. Current days and hours of operation:

- Monday Hours:
- Tuesday Hours:
- Wednesday Hours:
- Thursday Hours:
- Friday Hours:
- Saturday Hours:
- Sunday Hours:

2. *Of SCDOT vehicles purchased, what is the total mileage traveled in the previous fiscal year?*

3. *Cities Served in South Carolina (list all).*

ESTIMATED LEVEL OF SERVICE FOR APPLICATION

Estimate each Service Option: Passenger Trips, Revenue Hours and Revenue Miles for the previous State fiscal year (SFY):

	<u><i>Passenger Trips</i></u>	<u><i>Revenue Hours</i></u>	<u><i>Revenue Miles</i></u>
<i>General Public</i>			

4. Scope of Service

*Please describe a detailed summary of services that will be provided during the project fiscal year. Describe any proposed service expansion and planned capital purchases by line item. **Note:** This scope will be used in the subrecipient subcontract agreement.*

APPLICATION PART 3:

BUDGET INFORMATION

*Please download and complete the **Intercity Bus Budget Form** from [scdot.org](http://www.scdot.org) website <https://www.scdot.org/inside/inside-PublicTransit.aspx> under Annual Funding Announcement and Required Forms.*

I. INTRODUCTION

The South Carolina Department of Transportation (SCDOT) Office of Transit is accepting applications for its State Fiscal Year 2024 - 2025 Section 5311(f), Intercity Bus Program, as prescribed by the Federal Transit Administration's (FTA) Non-urbanized Area Formula Program (Section 5311) guidance. (FTA Circular 9040.1G)

The FTA has defined intercity bus service as:

Regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available. Package express service may also be included, if incidental to passenger transportation. Intercity service is not limited by the size of the vehicle used or by the identity of the carrier.

FTA provides the following characteristics of intercity bus service:

- ◆ Regularly scheduled bus service;
- ◆ Available to the general public;
- ◆ Makes limited stops;
- ◆ Operates on fixed routes;
- ◆ Connects two or more urban areas not in close proximity;
- ◆ Makes meaningful connections (if available);
- ◆ Predominantly passenger service (any package/goods service must be incidental);
- ◆ Not a commuter service; and
- ◆ Not air, water, or rail service (bus only).

Additionally, the U.S. General Accounting Office (GAO) has defined intercity bus service as regular route service that meets the following criteria:

- ◆ Operates between two or more cities, towns, or isolated clusters;
- ◆ Operates on a fixed schedule;
- ◆ Carries the general public and is not subject to preconditions for passage; and
- ◆ Does not operate wholly within urbanized areas.

SCDOT also recognizes that smaller private and public transportation operators, such as rural general public providers, can supplement the core intercity network by providing feeder service to connect with existing intercity service.

The FTA requires that states receiving Section 5311 Program funds expend a maximum of 15 percent of those funds on an intercity bus program, unless the Governor certifies that intercity bus needs in that state are being adequately met

SCDOT recognizes the importance of establishing a seamless public transportation network across the state, as well as providing citizens access to intercity, intrastate, regional, and connector services to

other modes of transportation (including intercity bus, air, and passenger rail services). SCDOT has established the Intercity Bus Program to provide funding to meet this objective.

Operations Emphasis

Based on the results of the 2018 South Carolina Intercity Bus Study and input provided by the state's intercity carriers and rural public transportation providers, the primary emphasis of SCDOT will continue to utilize 5311(f) Intercity Bus Program funds to provide assistance based on the stated needs of our Intercity Bus Providers. This can be accomplished by providing traditional intercity route service or feeder connections to existing intercity services.

Roles of the State (SCDOT)

The Office of Public Transit, at a minimum, will provide statewide oversight and document any findings, review and approve applications and other program-related documentation, issue contracts to approved applicants, and process requests for reimbursement for allowable project expenses.

II. POLICY

Eligible Applicants

To be eligible to submit an application for funding under the Section 5311(f) program, the applicant must be one of the following (FTA Circular 9040.1G, Page III-5, Section 2):

- ◆ Intercity bus providers;
- ◆ Private non-profit transportation providers;
- ◆ Private for-profit transportation providers;
- ◆ Local public transportation providers providing, or proposing to provide, feeder service to intercity carriers, or operation of a user-side-subsidy program; or
- ◆ Indian tribes and groups.

Note that at the discretion of SCDOT Office of Public Transit, funds may be passed through to a local agency that will subcontract with a third-party for-profit operator/administrator to provide the intercity bus service, feeder service, or user-side-subsidy program, and/or SCDOT may contract directly with a for-profit operator. This decision may vary among the proposed services, depending upon the applicant and type of applications received.

Eligible Projects

While it is anticipated that traditional intercity bus service will be the primary type of service funded with the Section 5311(f) funds, the Intercity Bus Program will also fund services that operate as feeder services to intercity bus routes. These services must be open to the general public, but may have characteristics that differ from those described above as intercity services. For example, feeder services may be demand-responsive in nature, or smaller vehicles may be used. At the same time, feeder services must make meaningful connections with intercity services at common terminals and at times provide for convenient connections. Such feeder services should have as their primary purpose the provision of a connection to the intercity bus network. Otherwise, only that portion of the feeder

funding. An example of this would be the extension of an existing bus route to serve the local intercity bus station. In this case, only the cost of the route extension would be eligible.

With an emphasis on operations and due to limited funding, the goal of the Intercity Bus Program should be the preservation of cost effective existing intercity bus services. The next priority is development of new intercity services, or feeder service to existing intercity routes from areas that do not currently have intercity connections especially between the I-85 and I-26 corridor, and along I-77 towards Charlotte, NC. SCDOT should also assist in maintaining a State of Good Repair for capital assets as well as replacement of assets that have reached their Useful Life based on FTA standards.

SCDOT requires that all services provided with Section 5311(f) funds offer users a meaningful connection with the national intercity bus network, including interline (joint) ticketing and service connections that are shown in the public timetables for the services. In addition, all projects funded under this program must provide for the marketing of the services to the general public. Requests for operating or capital assistance must include in their project description information about specific marketing efforts.

Current Section 5311(f) Supported Intercity Bus Service

SCDOT currently utilizes the 15 percent Section 5311(f) allocation to fund to support the following intercity bus routes/stops that are operated by Greyhound and Southeastern Stage carriers. **SCDOT only participates in the portion of the route that is operated within the State of South Carolina.**

- ◆ Anderson, Greenville, Duncan, Spartanburg;
- ◆ Columbia, Orangeburg, Walterboro, Beaufort
- ◆ Florence, Myrtle Beach, Aiken, Camden
- ◆ Georgetown, Summerville, Sumter

Available Intercity Bus Service Allocation

As required by FTA, SCDOT will allocate up to 15% of its annual Section 5311 Non-urbanized Area Formula Program apportionment with the intent of expending those available funds based on the stated needs of the Intercity Bus provider. Therefore, for SFY 2024-2025, SCDOT will make funding available based on justifiable needs and availability of funds to support the intercity bus network service in South Carolina. Should funding requests exceed available Section 5311(f) funds, eligible projects may receive less than the amount requested or be placed in alternate status pending additional Section 5311(f) funds being available.

Local Match Requirement/In-Kind Calculation

Section 5311(f) funds can be used to provide up to fifty percent (50%) of the net cost of service. The net cost of service is determined by subtracting passenger revenue from total operating expenses. The remaining 50 percent of the net cost of service must be provided with cash, and/or "In-Kind Match."

FTA Circular 9040.1G states that "Section 5311(g)(3)(D) provides that in the case of an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, the local match may be derived from the costs of a private operator for the

unsubsidized segment of intercity bus service as an in-kind match for the operating costs of connecting rural intercity feeder service funder under Section 5311(f).”

The private operator must agree in writing to the use of the costs of the private operator for the unsubsidized segment of intercity bus service as an in-kind match. This letter must include the funding amount to be used for in-kind match. This documentation must be included in the application submittal. To be considered eligible as in-kind match, the cost must be otherwise allowable as a cost under the Section 5311(f) program, and, therefore, must connect the rural community to further points.

FTA allows the following two methods for the private operator to determine the eligible net cost of the unsubsidized segment.

1. The private operator is presumed to be collecting at least enough in fares to cover the operating costs of the unsubsidized service, and thus only the capital costs of the unsubsidized service may be used as in-kind match. To simplify matters, FTA will use the percentages allowed in the capital cost of contracting guidance to determine how much of the private operator’s total costs are attributable to capital. (e.g., 50 percent where the operator provides and maintains all equipment, less if FTA-funded equipment is provided).
2. The private operator can directly calculate the net project cost of the unsubsidized segment and must provide to FTA verifiable information showing the eligible capital and operating expenses as well as fare revenues attributable to the unsubsidized segment that were used to make the calculation.

FTA Circular 9040.1G provides the following example of how the private operator can determine the eligible net cost of the unsubsidized route segment.

1. Feeder service: point A to B (\$15,000 total cost less \$5,000 fare box revenue equals \$10,000 net project cost to be matched by \$5,000 of 5311(f) funds).
2. Connecting unsubsidized private service:
 - a. Method 1: point B to C: \$10,000 net project cost based on 50% capital cost of contracting guidance.
 - b. Method 2: point B to C: \$10,000 net project cost based on \$15,000 in operating costs, \$5,000 in capital costs and subtracting \$10,000 in fare box revenues (\$15K + \$5K - \$10K).
3. The FTA Section 5311(f) project is defined as service from A to C. The net project cost is \$20,000 (\$10,000 from A to B and \$10,000 from B to C). FTA Section 5311(f) can fund \$10,000, matched with \$10,000 contributed by the private operator, in the B-C segment.

The examples above assume a 50/50 match ratio for operating assistance. In those situations where there is excess in-kind match available from the net project costs of the private provider, it cannot be used to increase the Section 5311(f) share above the actual operating deficit of the project. If there is not enough capital in-kind match to equal the Section 5311(f) funds needed to cover the operating deficit, the applicant would have to produce the difference in cash.

Each project using the in-kind match formula must provide a description of the feeder service and the connecting service, identifying locations served by each, and the connections. Only those runs that actually connect with the feeder service can be used for match. For example, if the private operator makes four trips per day through point B but the feeder service only operates twice daily, only the capital costs of the two daily connecting trips can be used as in-kind match. The application must include the calculation of the in-kind match for each applicable route.

Federal/State Regulatory Compliance

Recipients of Section 5311(f) funds must comply with all Federal/state regulatory requirements and provisions including, but not limited to, Drug and Alcohol Testing, Americans with Disabilities Act, Title VI, Section 5333(b) Labor Protection, DBE, Lobbying, and applicable certifications and assurances. Applicants will be required to provide this information following the selection of their application, as part of the original grant application package. Selected public or private non-profit applicants will also be required to provide a resolution from their governing board in support of the service.

III. SCOPE OF SERVICES

The following Scope of Services and all pertinent attachments and exhibits will become part of the contract with the applicant/operator selected to provide the requested services.

Description of Services Being Requested

Applications may be submitted for the currently supported intercity bus routes as noted previously in Section II and/or for new intercity bus routes or feeder services, or for capital projects. Service should provide “meaningful connections” to the national intercity bus network. This can be done with coordinated schedules and with interline agreements and/or through-service. Capital projects can be for replacement or expansion of rolling stock, facility improvements, and preventative maintenance on SCDOT funded assets.

Intercity service providers crossing state lines are required to comply with Federal Motor Carrier Safety Administration (FMCSA) regulations. Also, providers of intrastate service that interlines with services to provide interstate trips must meet FMCSA regulations. A signed statement of intent to maintain or acquire FMCSA authority must be submitted with the application. More information on those requirements is available at: <http://www.fmcsa.dot.gov/>.

Coordination/Public Outreach

In an effort to ensure as much of a seamless transportation system as possible, it is intended that projects provide for convenient connections between local and intercity modes to the greatest extent possible. Developing these connections will require coordination with local community transportation services along proposed routes, coordination with intercity bus carriers and their schedules and terminals, and coordination with commercial air and intercity passenger rail services. This includes meaningful connections at common terminals, reasonable waits between transfers, and to the extent possible, joint fares and common ticketing. The application should describe in sufficient detail the resulting coordinated service with other transportation providers.

Ticketing and Schedules

Ticket Agents

The provision of the intercity bus services includes securing ticket agents. Locations of the ticket agents should be in facilities that provide safety, shelter, telephone, rest room, light, heat, and parking, where possible. Such locations may include, but are not limited to, public buildings and facilities and private businesses. SCDOT requires that every effort be made to secure ticket agent locations that are accessible for persons with disabilities.

Passenger Facilities

Boarding and alighting locations for passengers are needed. Where possible, these locations should provide safety, shelter, telephone, rest room, light, heat, and parking. SCDOT also asks that every effort be made to identify locations that are accessible for persons with disabilities.

Schedule

The operation of intercity bus service requires development and distribution of a schedule or timetable that identifies each passenger boarding and alighting location. The Office of Public Transit suggests that this schedule be developed as part of a brochure that is designed as a marketing and public information tool. This schedule/brochure must be widely distributed and made available to SCDOT, all ticket agents secured as part of this service, local transit agencies, and the general public, including those who are elderly and those with disabilities. The applicant/carrier must also ensure that the route schedule is included in relevant motor coach publication/website.

Interline Agreements

Interlining is defined as transportation that is provided by two or more carriers, under a single through ticket, at a single through fare, and the revenue derived from each passenger is divided between the participating carriers at a rate agreed upon by the participating carriers.¹

Vehicles

Type of Vehicle

The operator is responsible for providing vehicles for the provision of services. All vehicles, except those for regional or feeder service, must have a lavatory and a baggage storage area. All vehicles must have air conditioning and heating. All vehicles must be maintained in compliance with all applicable Federal and state laws and regulations, as well as the manufacturer's maintenance schedule. The exterior and interior of vehicles must be cleaned on a regular basis. While it is not a requirement that a full size coach be used for these services, operators are encouraged to utilize an over-the-road coach for all services with the exception of feeder service. Vehicles should have clearly visible exterior signage indicating that the vehicle is providing intercity bus service.

Inspection of Vehicles

Vehicles used for the service are subject to inspection by Federal and State representatives. The carrier is responsible for repairing and/or replacing any items determined to be unsatisfactory in an inspection.

¹ *Federal Motor Carrier Safety Administration Regulations and Interlining Transportation for Rural Transit Providers-National RTAP, Updated 2022

Should the vehicle need to be taken out of service for repairs/maintenance, a comparable back-up vehicle must be available to provide the scheduled service.

Service to Passengers with Disabilities: Compliance with the Americans with Disabilities Act

Intercity bus projects must adhere to all Federal Transit Administration regulations including the Americans with Disabilities Act (ADA) by addressing the mobility needs of persons with disabilities. All services operated under this program must meet the applicable requirements for accessible service as defined by the ADA. Requirements differ based on the status of the entity (public or private), the type of vehicle, the size of the entity (if private) and the overall mix of service provided by the entity. Applications must include information on the applicable regulations for the service proposed and how the applicant will meet those regulations.

It should be noted that private operators of Over-the-Road Buses (OTRBs) are required to provide accessible service as described in the ADA Final Rule. All applicants will need to address this issue in their application. Additional information regarding this requirement can be found at: <http://www.fmcsa.dot.gov/regulations/americans-disabilities-act-reporting-and-other-requirements-over-road-bus-companies>.

Service Interruptions

Intercity bus service may be interrupted due to vehicle breakdown or severe weather condition. The carrier must provide a contingency plan for such service interruptions, which shall include, but is not limited to, provision of food and/or hotel accommodations for affected passengers.

IV. CONTRACT FOR SERVICE

Term of Contract

Provision of the intercity bus service in accordance with the Scope of Services in this application package will continue for a period of one (1) year. Note that the SCDOT Office of Transit will assess the operation of the service on a regular basis to determine whether to continue a project for a second year. SCDOT reserves the right to discontinue a project if the service is not meeting expectations and/or program goals.

Performance Measures

Performance measures for selected projects will be evaluated on a regular basis to monitor the success of the service. The agreed upon performance measures will contribute directly to the consideration for continued funding of the project in subsequent years. The Office of Public Transit will work directly with the applicant throughout the term of the contract to determine if the performance of service justifies its continuation and discuss service adjustments that might prove more beneficial to the area being served. Performance indicators include, but are not limited to:

- ◆ Ridership comparable to projections in application;
- ◆ Total in state passenger miles provided by route and total in-state miles on each coach purchased with funds secured by SCDOT;
- ◆ Cost per mile operated; and
- ◆ Effectiveness of marketing activities.

Record Keeping

The Office of Public Transit requires that the operator keep records on the services provided, total project costs and marketing efforts. Provider must also provide preventative maintenance records upon request for all assets purchased with 5311(f) funds secured by SCDOT. Records must be retained for at least three years following payment of the final invoice. Data to be recorded and reported is addressed below.

General Information

The Intercity Bus Application should be submitted electronically to The Office of Public Transit by **5:00 PM on July 12, 2024**. Applicants who are unable to submit the application electronically may submit the application by mail or hand deliver to the address noted below. Late applications shall not be accepted and shall automatically be disqualified from further consideration. One original hard copy must also be submitted by this deadline.

Ann Solan, Transit Grants Manager
South Carolina Department of Transportation
955 Park Street, Room 201
Post Office Box 191
Columbia, South Carolina 29202
(803) 737-0531
SolanAM@scdot.org

FTA FISCAL YEAR 2024 CERTIFICATIONS AND ASSURANCES

Please download and complete the FFY2024 Certifications and Assurances from [scdot.org](https://www.scdot.org) website <https://www.scdot.org/inside/inside-PublicTransit.aspx> under the FTA Certification and Assurance Language.

**LISTS OF STATUTES, REGULATIONS, EXECUTIVE ORDERS,
AND ADMINISTRATIVE REQUIREMENTS APPLICABLE TO
SECTION 5311 PROGRAM**

STATUTES

18 U.S.C. 1001

which provides criminal sanctions for those who knowingly and willfully provide false information to the Federal Government.

Section 5323(b) of the FT Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to provide a certification in the case of capital projects that it:

- (1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and held such hearings unless no one with a significant economic, social, or environmental interest in the matter, request a hearing;
- (2) has considered the economic and social effects of the project and its impact on the environment; and
- (3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Section 5323(a)(1) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to provide to the maximum extent feasible for the participation of private mass transportation companies

Section 5323(d) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to enter into an agreement with FTA not to provide charter service that will foreclose private operators

Section 5323(f) of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to enter into an agreement with FTA not to provide exclusive school bus operations

Section 5302 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which provides definitions applicable to the use of grant funds

Section 5333 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which requires, among other things, the recipient to comply with applicable labor requirements

Section 5311 of the Federal Transit Act, as amended, 49 U.S.C. 5301 *et. seq.*

Section 5332 of the FTA Act, 49 U.S.C. 5301 *et. seq.*

which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age

Section 5310 of the FTA Act, 49 U.S.C. 5301 *et seq.*

which provides, among other things, for the planning and design of mass transportation facilities to meet the special needs of elderly persons and persons with disabilities.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d)

which, among other things, prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e)

which, among other things, prohibits discrimination in employment Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 which, among other things, prohibits discrimination on the basis of handicap by recipients of Federal financial assistance "Hatch Act", 5 U.S.C. 1501, *et seq.* which, among other things, imposes certain restrictions on political activities of recipients of Federal financial assistance.

"Buy America Requirements", Section 165 of the Surface Transportation Assistance Act of 1982, P.L. 97-424 which, among other things, requires that steel, and manufactured products procured under FTA-funded contracts of a certain size be of domestic manufacture or origin (with four exceptions)

Davis-Bacon Act, as amended, 40 U.S.C. 276a, *et seq.*

which requires, among other things, that all mechanics and laborers working on federally assisted construction projects (in excess of \$2,000 contract value) be paid not less often than once a week, at wage rates computed at an amount not less than the prevailing wages for similar work in the same geographic area of the project

Copeland "Anti-Kickback" Act. 40 U.S.C. 874

which, among other things, prohibits payroll deductions from the wages of employees who are covered by the Davis-Bacon Act for any reason except those specifically stated in the Copeland Act

Contract Work and Safety Standards Act, 40 U.S.C. 327-332

which, among other things, establishes the required basis and conditions for hours of work and for overtime pay of laborers and mechanics, and directs the Department of Labor to formulate construction safety and health standards

National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

which, among other things, prohibits Federal assistance that will adversely affect the quality of the environment

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4610, *et seq.* which, among other things, establishes the terms and conditions for compensation to property owners and occupants who are displaced as a result of federally assisted projects

Archaeological and Historic Preservation Act of 1966, 16 U.S.C. 469a-1, *et seq.*

which provides protection for historically valuable property

National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*

which, among other things, provides for the protection of national historic sites

Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq. which, among other things, sets limits on pollutants discharged in international waterways and requires safeguard against spills from oil storage facilities

Clean Air Act of 1955, as amended 42 U.S.C. 7402, *et seq.*
which, among other things, establishes national standards for vehicle emissions

Energy Policy and Conservation Act, 42 U.S.C. 6321
which, among other things, authorizes development and implementation of State energy conservation plans

National Flood Insurance Act of 1968, 42 U.S.C. 4011, *et seq.*
which, among other things, authorizes a national flood insurance program

Flood Disaster Protections Act of 1973, 42 U.S.C. 4012a, *et seq.*
which, among other things, requires the purchase of flood insurance by recipients of Federal financial assistance who are located in areas having special flood hazards

Single Audit Act 1984, P.L. 98-502
which establishes audit requirements for State and local governments that receive Federal aid

REGULATIONS

49 C.F.R. Part 600, *et seq.*
regulations promulgated by FTA

49 C.F.R. Parts 21, 23, 25, 27, 37 and 38
regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, Minority Business Enterprise, Relocation and Land Acquisition, Nondiscrimination on the Basis of Handicap, and the Americans with Disabilities Act, respectively.

36 C.F.R. Part 800
regulations promulgated by the Advisory Council on Historic Preservation

46 C.F.R. Part 381
regulations promulgated by the Maritime Administration governing cargo preference requirements

31 C.F.R. Part 205
regulations promulgated by the Department of Treasury governing letter of credit

40 C.F.R. Part 15
regulations promulgated by the Environmental Protection Agency pertaining to administration of Clean Air and Water Pollution requirements of grantees

29 C.F.R. Parts 5 and 215
regulations promulgated by the Department of Labor pertaining to construction labor and transit employee protections

EXECUTIVE ORDERS

E.O. 11246

which establishes requirements in construction activities for contracts over \$10,000

E.O. 11988

which establishes certain specific requirements related to flood protection and control

E.O. 12372

which rescinds OMB Circular A-95 and establishes new procedures for State review of Federally funded projects

ADMINISTRATIVE REQUIREMENTS

Office of Management and Budget (OMB) Circular A-87

which provides cost principles applicable to grants and contracts with State and local governments

Office of Management and Budget (OMB) Circular A-102

which provides uniform requirements for assistance to State and local governments

Office of Management and Budget (OMB) Circular A-128

which applies to audits of State and local governments

Selection and Signature Page(s) follow.

FTA Section 5333(b) Certification

**STATEMENT OF ACCEPTANCE OF THE
SPECIAL SECTION 5333(b) WARRANTY**

All Applicants/Recipients must execute the following statement of acceptance:

The _____ and _____
(Applicant) (Recipient/Contract Provider if not Applicant)

Agree to make use of the Special Section 5333(b) Warranty developed for exclusive application to the Rural and Small Urban Transit Assistance Program – Section 5311 of the Federal Transit Act, as amended.

The Applicant and Recipient/Contract Provider agree to be bound by the terms and conditions of the Special Section 5333(b) Warranty for its pending Section 5311 assistance grant**. This warranty shall become a part of any contract between SCDOT and the applicant.

Signed by Applicant

Date

* * * * *

Signed by Recipient/Contract Provider

Date

(Address)

(Telephone #)

(Fax #)

(E-Mail Address)

**** FTA requires that each sub-recipient post the Special Warranty (Included) where affected employees may see it.**

**SPECIAL SECTION 5333(b) WARRANTY
LIST OF PUBLIC TRANSPORTATION PROVIDERS & LABOR UNIONS**

This form must be completed by all Applicants/Recipients. If there are no other eligible providers in your service area, mark a "N/A" under the Other Eligible Providers section.

Applicant: _____ Union Rep.: _____

Service Area Description: _____

___ Operating Assistance for FY _____

___ Capital Assistance to purchase _____

Recipients/Contract Providers

(if different than Applicant):

Union Representation (Union & Local #):

**Other Eligible Providers in
Applicant's Service Area:**

Union Representation (Union & Local #):

CATEGORICAL EXCLUSION CLASSIFICATION OF CAPITAL PROJECTS CHECKLIST

The following checklist identifies transit projects that are considered Categorical Exclusions (CEs) by FTA. Please check the category or categories under which your project should be classified. If your project does not fall under any of the standard categories, but you feel it meets the criterion of a CE (the project will have no significant impact on the environment), then provide project information justifying a CES classification.

The _____ capital project is a categorical exclusion because it is for:
(Name of Applicant)

- Planning and technical studies which will not fund the construction of facilities or acquisition of capital equipment.
- Engineering to define the elements of a proposal or alternatives sufficiently so that environmental effects can be assessed.
- Ridesharing activities and transportation corridor fringe parking facilities.
- Program administration and technical assistance activities by the applicant to administer Section 5311 funds.
- Project administration and operating assistance to continue existing service or increase service to meet demand.
- Purchase of vehicles of the same type (same mode) either as replacements or to increase the size of the fleet where such increase can be accommodated by existing facilities or by new facilities which themselves are within a categorical exclusion.
- Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where no additional land is required and there is no substantial increase in the number of users.
- Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant physical impacts off the site where the facility is located.
- Installation of signs, small passenger and bus shelters, and traffic signs where no substantial land acquisition or traffic disruption will occur.
- Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- Acquisition of land in which the property will not be modified, the land use will not be changed, and displacements will not occur. For projects other than FTA advance land loans, this categorical exclusion is limited to the acquisition of minor amounts of land. This is undertaken for the purpose of maintaining the current land use and preserving alternatives to be considered in the environmental process. Advance land acquisition shall not limit the evaluation of alternatives, including shifts in alignment for a construction project, which may be required in the National Environmental Policy Act process.
- Emergency repairs under 23 U.S.C. 125 which do not substantially change the design and are commenced during or immediately after the occurrence of a natural disaster or catastrophic failure.

**Applicant's Certification of Use of Project Equipment,
Facilities and Property**

I hereby certify that Project equipment, facilities and property continue to be used in accordance with the terms and conditions of all applicable capital and operating grant agreements, and that no part of the local contribution has been refunded or reduced.

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

AUTHORIZING RESOLUTION

Resolution No. _____

Resolution authorizing the filing of an application for a grant under Section 5311 of the Federal Transit Act, as amended.

WHEREAS, the U.S. Department of Transportation is authorized to make grants to states through the Federal Transit Administration (FTA) to support capital, operating and feasibility study assistance projects for non-urbanized public transportation systems under Section 5311 of the FTA Act of 1964, as amended;

WHEREAS, The Office of Public Transit, South Carolina Department of Transportation (SCDOT) has been designated by the Governor to make Section 5311 grants for public transportation projects;

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs;

NOW, THEREFORE, BE IT RESOLVED BY _____ (Applicant) :

1. That _____ (Name and Title of Authorized Official) on behalf of _____ (Applicant) is authorized to make the necessary assurances and certifications and be empowered to enter into an agreement with SCDOT for the provision of rural public transportation services.
2. That _____ (Name and Title of Transit Provider) is authorized to execute and file an application on behalf of _____ (Applicant) with the SCDOT to aid in the financing of transit assistance projects pursuant to Section 5311 of the Federal Transit Act, as amended.
3. That _____ (Name & Title of Transit Provider), is authorized to furnish such additional information as SCDOT may require in connection with the application.
4. That _____ (Name & Title of Transit Provider) is authorized to execute grant contract agreements on behalf of _____ (Applicant).

CERTIFICATE

The undersigned duly qualified and acting _____ (Title of Officer), of the _____ (Applicant) certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the _____ (Applicant) held on _____, 20__.

If Applicant has an official seal, impress here.

Signature of Recording Officer

Title of Recording Officer

Date

DBE Certification

_____ (applicant name) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of federal aid contracts or in DBE program administration. _____ (applicant name) is aware that failure to carry out these requirements shall constitute a breach of contract and may result in termination of the contract or such remedy as SCDOT deems appropriate. SCDOT will require all _____ (applicant name) employees and agents to adhere to the provisions of 49 CFR Part 26.

_____ (applicant name) in administering its DBE Program, will not directly or through contract, use criteria or methods to defeat or impair the accomplishment of the objectives of the DBE Program with respect to persons of a particular race, color, national origin or sex. In addition, other federal laws state _____ (applicant name) shall not discriminate on the basis of age, religion or veteran status.

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

Title VI Certification

_____ (applicant name) certifies compliance with Title VI of the Civil Rights Act of 1964. _____ (applicant name) provides the required Title VI Notice to the Public and is displayed to inform customers of their rights under Title VI. At a minimum, _____ (applicant name) posts the notice on the agency's website and in public areas of the agency's office(s), including the reception desk, meeting rooms, etc. _____ (applicant name) also displays Title VI Notices in transit facilities (e.g., headquarters, transit shelters and stations, etc.), and on transit vehicles (e.g., buses, shelters, etc.). _____ (applicant name) certifies that if there are Limited English Proficient (LEP) populations in your service area, then the Notice is provided in English and in any other language(s) spoken by LEP populations.

Public Notice of Rights Under Title VI of the Civil Rights Act of 1964

(Transit System)

(Transit System) operates its programs and services without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, income status, or LEP, in accordance with Title VI of the Civil Rights Act of 1964. Any person who believes he or she has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with **(Transit System.)**

For information on **(Transit System's)** civil rights plan and the procedures to file a complaint contact **(Transit System Representative, Contact telephone # and TTY contact #; email contact,)** or visit our office at **(Transit System Address.)** For more information visit **(Transit System Website.)**

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the

Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor –TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

If information is needed in another language or alternate format contact **(Transit System Representative at Telephone contact # and TTY contact #, email contact)**

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

Certification of FMCSA Authority

The FMCSA monitors and ensures compliance with motor carrier safety (all carriers) and commercial (for-hire, non-exempt carriers) regulations. Companies may find they are subject to registration requirements for both safety (safety registration) and commercial regulation (operating authority registration). Companies subject to the safety requirements are also required to obtain a USDOT Number.

The FMCSA registration process requires that companies define the type of Motor Carrier, Broker, Intermodal Equipment Provider (IEP), Cargo Tank Facility, Shipper and/or Freight Forwarder business operation they plan to establish. The Agency administers the Federal Motor Carrier Safety Regulations (FMCSR) and Hazardous Materials Regulations (HMR) that govern interstate - and some intrastate - commercial trucking and bus industries.

This determination is based on self-classification of a company's planned business operation using criteria such as cargo, operation, and company type. Online resources designed to help streamline the application process are also briefly reviewed.

In general, companies that do the following are required to have interstate Operating Authority (MC number) in addition to a DOT number:

- Operate as for-hire carriers (for a fee or other compensation)
- Transport passengers in interstate commerce
- Transport federally-regulated commodities or arranging for their transport, in interstate commerce

FMCSA operating authority is often identified as an "MC," "FF," or "MX" number, depending on the type of authority that is granted. Unlike the USDOT Number application process, a company may need to obtain multiple operating authorities to support its planned business operations. Operating Authority dictates the type of operation a company may run and the cargo it may carry.

_____ (applicant name) certifies to acquire and maintain FMCSA Operating Authority registration required by [49 U.S.C. 13902](#), [49 CFR part 365](#), [49 CFR part 368](#), and [49 CFR 392.9a](#). _____ (applicant name) certifies that FMCSA Operating Authority will be current and maintained within the dates of the grant contract with SCDOT and _____ (applicant name).

Name of Authorized Official

Signature of Authorized Official

Title of Authorized Official

Name of Applicant

Date

(DO NOT SUBMIT with Application)

**Other Than Urbanized and Over - the - Road Bus Accessibility Projects
PURSUANT TO SECTION 5333(b) OF TITLE 49 OF THE U.S. CODE, CHAPTER 53
October 1, 2008**

The following language shall be made part of the contract of assistance by reference in the Federal Transit Administration's Master Agreement as signed by the grantee:

The terms and conditions set forth below shall apply for the protection of the transportation-related employees in the transportation service area of the Project. As a precondition of the release of assistance by the Grantee/State Agency to any Recipient under the grant, the Grantee shall bind the Recipient to these obligations by incorporating this arrangement into the contract of assistance between the Grantee and the Recipient(s), by reference. If a Grantee fails to comply with the terms of the Warranty and fails to bind a Recipient as a precondition to the release of funds, the Grantee will be a guarantor of the required protections and the Grantee will be required to act as if it were the Recipient of funds unless and until the Grantee is able to secure the retroactive agreement of the Recipient to be bound by the terms of the Warranty.

These protective arrangements are intended for the benefit of transit employees in the service area of the project, who are considered as third-party beneficiaries to the employee protective arrangements referenced in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Employees, or their representative, 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.

The term "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. The term "Union," as used herein, shall refer to any labor organization representing employees providing public transportation services in the service area of a Project assisted under the grant. The term "employee," as used herein, shall include individuals who may or may not be represented by a Union. The term "Recipient," as used herein, shall refer to any employer(s) receiving transportation assistance under the grant. The term "Grantee," as used herein, shall refer to the applicant for assistance; a Grantee which receives assistance is also a Recipient.

Where the Department of Labor (the Department) deems it necessary to modify the requirements of this Special Warranty Arrangement so that a particular Grantee or Recipient can continue to satisfy the requirements of the statute, the Department will issue a supplementary certification letter setting forth the alternative provisions to be included in the contract of assistance between the Grantee and FTA, by reference. These terms will be made binding upon the particular Grantee or Recipient, along with these terms and conditions, for each subsequent grant of assistance until withdrawn in writing by the Department.

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the

Recipient to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall, when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about solely by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his/her position with regard to employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of this arrangement.

(2) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect. This Arrangement does not create any collective bargaining relationship where one does not already exist or between any Recipient and the employees of another employer. Where the Recipient has no collective bargaining relationship with the Unions representing employees in the service area, the Recipient will not take any action which impairs or interferes with the rights, privileges, and benefits and/or the preservation or continuation of the collective bargaining rights of such employees.

(3) All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this arrangement (including employees having already retired) under existing collective bargaining agreements or otherwise, or under any revision or renewal thereof, shall be preserved and continued; provided, however, that such rights, privileges and benefits which are not foreclosed from further bargaining under applicable law or contract may be modified by collective bargaining and agreement by the Recipient and the Union involved to substitute other rights, privileges and benefits. Unless otherwise provided, nothing in this arrangement shall be deemed to restrict any rights the Recipient may otherwise have to direct the working forces and manage its business as it deemed best, in accordance with the applicable collective bargaining agreement.

(4) The collective bargaining rights of employees covered by this arrangement, including the right to arbitrate labor disputes and to maintain union security and checkoff arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements, shall be preserved and continued. Provided, however, that this provision shall not be interpreted so as to require the Recipient to retain any such rights which exist by virtue of a collective bargaining agreement after such agreement is no longer in effect.

The Recipient agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or

arrange for such agreements to be entered into, relative to all subjects which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this arrangement the right to utilize any economic measures, nothing in this arrangement shall be deemed to foreclose the exercise of such right.

(5) (a) The Recipient shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces as a result of the Project. In the case of employees represented by a Union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs within the jurisdiction and control of the Recipient, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21), available to be filled by such affected employees.

(b) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a Union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees, negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. These negotiations shall include determining the selection of forces from among the mass transportation employees who may be affected as a result of the Project, to establish which such employees shall be offered employment for which they are qualified or can be trained. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (15) of this arrangement. Unless the parties otherwise mutually agree in writing, no change in operations, services, facilities or equipment within the purview of this paragraph (5) shall occur until after either: 1) an agreement with respect to the application of the terms and conditions of this arrangement to the intended change(s) is reached; 2) the decision of the arbitrator has been rendered pursuant to this subparagraph (b); or 3) an arbitrator selected pursuant to Paragraph (15) of this arrangement determines that the intended change(s) may be instituted prior to the finalization of implementing arrangements.

(c) In the event of a dispute as to whether an intended change within the purview of this paragraph (5) may be instituted at the end of the 60-day notice period and before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), any involved party may immediately submit that issue to arbitration under paragraph (15) of this arrangement. In any such arbitration, the arbitrator shall rely upon the standards and criteria utilized by the Surface Transportation Board (and its predecessor agency, the Interstate Commerce Commission) to address the "pre consummation" issue in cases involving employee protections pursuant to 49 U.S.C. Section 11326 (or its predecessor, Section 5(2)(f) of the Interstate Commerce Act, as amended). If the Recipient demonstrates, as a threshold matter in any such arbitration, that the intended action is a trackage rights, lease proceeding or similar transaction, and not a merger, acquisition, consolidation, or other similar transaction, the burden shall then shift to the involved labor organization(s) to prove that under the standards and criteria referenced above, the intended action should not be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. If the Recipient fails to demonstrate that the intended action is a trackage rights, lease proceeding, or similar transaction, it shall be the burden of the Recipient to prove that under

the standards and criteria referenced above, the intended action should be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. For purposes of any such arbitration, the time period within which the parties are to respond to the list of potential arbitrators submitted by the American Arbitration Association Service shall be five (5) days, the notice of hearing may be given orally or by facsimile, the hearing will be held promptly, the award of the arbitrator shall be rendered promptly and, unless otherwise agreed to by the parties, no later than fourteen (14) days from the date of closing the hearings, with five (5) additional days for mailing if post hearing briefs are requested by either party. The intended change shall not be instituted during the pendency of any arbitration proceedings under this subparagraph (c).

(d) If an intended change within the purview of this paragraph (5) is instituted before an implementing agreement is reached or a final arbitration decision is rendered pursuant to subparagraph (b), all employees affected shall be kept financially whole, as if the noticed and implemented action has not taken place, from the time they are affected until the effective date of an implementing agreement or final arbitration decision. This protection shall be in addition to the protective period defined in paragraph (14) of this arrangement, which period shall begin on the effective date of the implementing agreement or final arbitration decision rendered pursuant to subparagraph (b).

An employee selecting, bidding on, or hired to fill any position established as a result of a noticed and implemented action prior to the consummation of an implementing agreement or final arbitration decision shall accumulate no benefits under this arrangement as a result thereof during that period prior to the consummation of an implementing agreement or final arbitration decision pursuant to subparagraph (b).

(6) (a) Whenever an employee, retained in service, recalled to service, or employed by the Recipient pursuant to paragraphs (5), (7)(e), or (18) hereof is placed in a worse position with respect to compensation as a result of the Project, the employee shall be considered a "displaced employee", and shall be paid a monthly "displacement allowance" to be determined in accordance with this paragraph. Said displacement allowance shall be paid each displaced employee during the protective period so long as the employee is unable, in the exercise of his/her seniority rights, to obtain a position producing compensation equal to or exceeding the compensation the employee received in the position from which the employee was displaced, adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his/her total time paid for during the last twelve (12) months in which the employee performed compensated service more than fifty per centum of each such months, based upon the employee's normal work schedule, immediately preceding the date of his/her displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for. If the displaced employee's compensation in his/her current position is less in any month during his/her protective period than the aforesaid average compensation

(adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for), the employee shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that the employee is not available for service equivalent to his/her average monthly time, but the employee shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for. If a displaced employee fails to exercise his/her seniority rights to secure another position to which the employee is entitled under the then existing collective bargaining agreement, and which carries a wage rate and compensation exceeding that of the position which the employee elects to retain, the employee shall thereafter be treated, for the purposes of this paragraph, as occupying the position the employee elects to decline.

(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(7) (a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, in accordance with any collective bargaining agreement applicable to his/her employment, the employee shall be considered a "dismissed employee" and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. Said dismissal allowance shall first be paid each dismissed employee on the thirtieth (30th) day following the day on which the employee is "dismissed" and shall continue during the protective period, as follow:

Employee's length of service prior to adverse effect
Period of protection

- 1 day to 6 years equivalent period
- 6 years or more 6 years

The monthly dismissal allowance shall be equivalent to one-twelfth (1/12th) of the total compensation received by the employee in the last twelve (12) months of his/her employment in which the employee performed compensation service more than fifty per centum of each such month based on the employee's normal work schedule to the date on which the employee was first deprived of employment as a result of the Project. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the position the employee holds is abolished as a result of the Project, or when the position the employee holds is not abolished but the employee loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project or as a result of the exercise of seniority rights by other employees brought about as a result of the Project, and the employee is unable to obtain another position, either by the exercise of the employee's seniority rights, or through the Recipient, in accordance with subparagraph (e). In the absence of proper notice followed by an agreement or decision pursuant to paragraph (5) hereof, no employee who has been deprived of employment as a result of the Project shall be required to exercise his/her seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(c) Each employee receiving a dismissal allowance shall keep the Recipient informed as to his/her current address and the current name and address of any other person by whom the employee may be regularly employed, or if the employee is self-employed.

(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when the employee is absent from service, the employee will be entitled to the dismissal allowance when the employee is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of that position, until the regular employee is available for service, and thereafter shall revert to the employee's previous status and will be given the protections of the agreement in said position, if any are due him/her.

(e) An employee receiving a dismissal allowance shall be subject to call to return to service by the employee's former employer; notification shall be in accordance with the terms of the then-existing collective bargaining agreement if the employee is represented by a union. Prior to such call to return to work by his/her employer, the employee may be required by the Recipient to accept reasonably comparable employment for which the employee is physically and mentally qualified, or for which the employee can become qualified after a reasonable training or retraining period, provided it does not require a change in residence or infringe upon the employment rights of other employees under then-existing collective bargaining agreements.

(f) When an employee who is receiving a dismissal allowance again commences employment in accordance with subparagraph (e) above, said allowance shall cease while the employee is so reemployed, and the period of time during which the employee is so reemployed shall be deducted from the total period for which the employee is entitled to receive a dismissal allowance. During the time of such reemployment, the employee shall be entitled to the protections of this arrangement to the extent they are applicable.

(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that the employee's combined monthly earnings from such other employment or self-employment, any benefits received from any unemployment insurance law, and his/her dismissal allowance exceed the amount upon which the employee's dismissal allowance is based. Such employee, or his/her union representative, and the Recipient shall agree upon a procedure by which the Recipient shall be kept currently informed of the earnings of such employee in employment other than with the employee's former employer, including self-employment, and the benefits received.

(h) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service in accordance with the applicable labor agreement, or to accept employment as provided under subparagraph (e) above, or in the event of the employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(i) A dismissed employee receiving a dismissal allowance shall actively seek and not refuse other reasonably comparable employment offered him/her for which the employee is physically and mentally qualified and does not require a change in the employee's place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of

the employee's allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his/her representative, or by final arbitration decision rendered in accordance with paragraph (15) of this arrangement that such employee did not comply with this obligation.

(8) In determining length of service of a displaced or dismissed employee for purposes of this arrangement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him/her and the employee shall be given additional service credits for each month in which the employee receives a dismissal or displacement allowance as if the employee were continuing to perform services in his/her former position.

(9) No employee shall be entitled to either a displacement or dismissal allowance under paragraphs (6) or (7) hereof because of the abolishment of a position to which, at some future time, the employee could have bid, been transferred, or promoted.

(10) No employee receiving a dismissal or displacement allowance shall be deprived, during the employee's protected period, of any rights, privileges, or benefits attaching to his/her employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for the employee and the employee's family, sick leave, continued status and participation under any disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which the employee may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

(11) (a) Any employee covered by this arrangement who is retained in the service of his/her employer, or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his/her employment in order to retain or secure active employment with the Recipient in accordance with this arrangement, and who is required to move his/her place of residence, shall be reimbursed for all expenses of moving his/her household and other personal effects, for the traveling expenses for the employee and members of the employee's immediate family, including living expenses for the employee and the employee's immediate family, and for his/her own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter, not to exceed five (5) working days. The exact extent of the responsibility of the Recipient under this paragraph, and the ways and means of transportation, shall be agreed upon in advance between the Recipient and the affected employee or the employee's representatives.

(b) If any such employee is laid off within three (3) years after changing his/her point of employment in accordance with paragraph (a) hereof, and elects to move his/her place of residence back to the original point of employment, the Recipient shall assume the expenses, losses and costs of moving to the same extent provided in subparagraph (a) of this paragraph (11) and paragraph (12)(a) hereof.

(c) No claim for reimbursement shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within ninety (90) days after the date on which the expenses were incurred.

(d) Except as otherwise provided in subparagraph (b), changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12) (a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his/her employment as a result of the Project, and is thereby required to move his/her place of residence. If the employee owns his/her own home in the locality from which the employee is required to move, the employee shall, at the employee's option, be reimbursed by the Recipient for any loss suffered in the sale of the employee's home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person and to reimburse the seller for his/her conventional fees and closing costs. If the employee is under a contract to purchase his/her home, the Recipient shall protect the employee against loss under such contract, and in addition, shall relieve the employee from any further obligation thereunder. If the employee holds an unexpired lease of a dwelling occupied as the employee's home, the Recipient shall protect the employee from all loss and cost in securing the cancellation of said lease.

(b) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within one year after the effective date of the change in residence.

(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through a joint conference between the employee, or his/her union, and the Recipient. In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner:

(1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the valuation, shall endeavor by agreement with ten (10) days thereafter to select a third appraiser or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State and local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding, and conclusive. The compensation and expenses of the neutral appraiser including expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(d) Except as otherwise provided in paragraph (11)(b) hereof, changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(e) "Change in residence" means transfer to a work location which is either (A) outside a radius of twenty (20) miles of the employee's former work location and farther from the employee's residence than was his/her former work location, or (B) is more than thirty (30) normal highway route miles from the employee's residence and also farther from his/her residence than was the employee's former work location.

(13) (a) A dismissed employee entitled to protection under this arrangement may, at the employee's option within twenty-one (21) days of his/her dismissal, resign and (in lieu of all other benefits and protections provided in this arrangement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936:

Length of Service Separation Allowance

- 1 year and less than 2 years 3 months' pay
- 2 years and less than 3 years 6 months' pay
- 3 years and less than 5 years 9 months' pay
- 5 years and less than 10 years 12 months' pay
- 10 years and less than 15 years 12 months' pay
- 15 years and over 12 months' pay

In the case of an employee with less than one year's service, five days' pay, computed by multiplying by 5 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied, for each month in which the employee performed service, will be paid as the lump sum.

Length of service shall be computed as provided in Section 7(b) of the Washington Job Protection Agreement, as follows:

For the purposes of this arrangement, the length of service of the employee shall be determined from the date the employee last acquired an employment status with the employing carrier and the employee shall be given credit for one month's service for each month in which the employee performed any service (in any capacity whatsoever) and twelve (12) such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, the employee will be given credit for performing service while so engaged on leave of absence from the service of a carrier.

(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the

employee in the position last occupied prior to time of the employee's dismissal as a result of the Project.

(14) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years therefore, provided, however, that the protective period for any particular employee during which the employee is entitled to receive the benefits of these provisions shall not continue for a longer period following the date the employee was displaced or dismissed than the employee's length of service, as shown by the records and labor agreements applicable to his/her employment prior to the date of the employee's displacement or dismissal.

(15) (a) In the event that employee(s) are represented by a Union, any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement, not otherwise governed by paragraph 12(c), the Labor-Management Relations Act, as amended, the Railway Labor Act, as amended, or by impasse resolution provisions in a collective bargaining or protective arrangement involving the Recipient and the Union, which cannot be settled by the parties thereto within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties. In the event they cannot agree upon such procedure, the dispute, claim, or grievance may be submitted at the written request of the Recipient or the Union to final and binding arbitration. Should the parties be unable to agree upon the selection of a neutral arbitrator within ten (10) days, any party may request the American Arbitration Association to furnish, from among arbitrators who are then available to serve, five (5) arbitrators from which a neutral arbitrator shall be selected. The parties shall, within five (5) days after the receipt of such list, determine by lot the order of elimination and thereafter each shall, in that order, alternately eliminate one name until only one name remains. The remaining person on the list shall be the neutral arbitrator. Unless otherwise provided, in the case of arbitration proceedings, under paragraph (5) of this arrangement, the arbitration shall commence within fifteen (15) days after selection or appointment of the neutral arbitrator, and the decision shall be rendered within forty-five (45) days after the hearing of the dispute has been concluded and the record closed. The decision shall be final and binding. All the conditions of the arrangement shall continue to be effective during the arbitration proceedings.

(b) The compensation and expenses of the neutral arbitrator, and any other jointly incurred expenses, shall be borne equally by the Union(s) and Recipient, and all other expenses shall be paid by the party incurring them.

(c) In the event that employee(s) are not represented by a Union, any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement which cannot be settled by the Recipient and the employee(s) within thirty (30) days after the dispute or controversy arises, may be referred by any such party to any final and binding dispute settlement procedure acceptable to the parties, or in the event the parties cannot agree upon such a procedure, the dispute or controversy may be referred to the Secretary of Labor for a final and binding determination.

(d) In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be the obligation of the employee or the representative of the employee to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Recipient 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).

(16) The Recipient will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by this arrangement may file a written claim of its violation, through the Union, or directly if the employee is outside the bargaining unit, with the Recipient within sixty (60) days of the date the employee is terminated or laid off as a result of the Project, or within eighteen (18) months of the date the employee's position with respect to his/her employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim. Unless such claims are filed with the Recipient within said time limitations, the Recipient shall thereafter be relieved of all liabilities and obligations related to the claim.

The Recipient will fully honor the claim, making appropriate payments, or will give notice to the claimant or his/her representative of the basis for denying or modifying such claim, giving reasons therefore. If the Recipient fails to honor such claim, the Union or nonbargaining unit employee may invoke the following procedures for further joint investigation of the claim by giving notice in writing. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third party such additional factual materials as may be relevant. In the event the Recipient rejects the claim, the claim may be processed to arbitration as hereinabove provided by paragraph (15).

(17) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements or otherwise; provided that there shall be no duplication of benefits to any employee, and, provided further, that any benefit under this arrangement shall be construed to include the conditions, responsibilities, and obligations accompanying such benefit. This arrangement shall not be deemed a waiver of any rights of any Union or of any represented employee derived from any other agreement or provision of federal, state or local law.

(18) During the employee's protective period, a dismissed employee shall, if the employee so requests, in writing, be granted priority of employment or reemployment to fill any vacant position within the jurisdiction and control of the Recipient reasonably comparable to that which the employee held when dismissed, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21) herein, for which the employee is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining agreements related thereto. In the event such employee requests such training or retraining to fill such vacant position, the Recipient shall provide for such training or retraining at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the applicable collective bargaining agreement or otherwise established in personnel policies or

practices for such position, plus any displacement allowance to which the employee may be otherwise entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which the employee held when dismissed for which the employee is qualified, or for which the employee has satisfactorily completed such training, the employee shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this arrangement.

As between employees who request employment pursuant to this paragraph, the following order where applicable shall prevail in hiring such employees:

- (a) Employees in the craft or class of the vacancy shall be given priority over employees without seniority in such craft or class;
- (b) As between employees having seniority in the craft or class of the vacancy, the senior employees, based upon their service in that craft or class, as shown on the appropriate seniority roster, shall prevail over junior employees;
- (c) As between employees not having seniority in the craft or class of the vacancy, the senior employees, based upon their service in the crafts or classes in which they do have seniority as shown on the appropriate seniority rosters, shall prevail over junior employees.

(19) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under the Federal Transit statute and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of this arrangement and to the proper determination of any claims arising thereunder.

(20) In the event the Project is approved for assistance under the statute, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the applicant for federal funds and between the applicant and any recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his/her representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

(21) This arrangement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made by or for the Recipient to manage and operate the system.

Any person, enterprise, body, or agency, whether publicly - or privately-owned, which shall undertake the management, provision and/or operation of the Project services or the Recipient's transit system, or any part or portion thereof, under contractual arrangements of any form with the Recipient, its successors or assigns, shall agree to be bound by the terms of this arrangement and accept the responsibility with the Recipient for full performance of these

conditions. As a condition precedent to any such contractual arrangements, the Recipient shall require such person, enterprise, body or agency to so agree.

(22) In the event of the acquisition, assisted with Federal funds, of any transportation system or services, or any part or portion thereof, the employees of the acquired entity shall be assured employment, in comparable positions, within the jurisdiction and control of the acquiring entity, including positions in the employment of any entity bound by this arrangement pursuant to paragraph

(21) All persons employed under the provisions of this paragraph shall be appointed to such comparable positions without examination, other than that required by applicable federal, state or federal law or collective bargaining agreement, and shall be credited with their years of service for purposes of seniority, vacations, and pensions in accordance with the records of their former employer and/or any applicable collective bargaining agreements.

(23) The employees covered by this arrangement shall continue to receive any applicable coverage under Social Security, Railroad Retirement, Workmen's Compensation, unemployment compensation, and the like. In no event shall these benefits be worsened as a result of the Project.

(24) In the event any provision of this arrangement is held to be invalid, or otherwise unenforceable under the federal, state, or local law, in the context of a particular Project, the remaining provisions of this arrangement shall not be affected and the invalid or unenforceable provision shall be renegotiated by the Recipient and the interested Union representatives, if any, of the employees involved for purpose of adequate replacement under Section 5333(b). If such negotiation shall not result in mutually satisfactory agreement any party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements for application only to the particular Project, which shall be incorporated in this arrangement only as applied to that Project, and any other appropriate action, remedy, or relief.

(25) If any employer of the employees covered by this arrangement shall have rearranged or adjusted its forces in anticipation of the Project, with the effect of depriving an employee of benefits to which the employee should be entitled under this arrangement, the provisions of this arrangement shall apply to such employee as of the date when the employee was so affected.

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