

PALM BEACH TPA Agreement No. 2025-04

**BETWEEN
PALM BEACH MPO DBA
THE PALM BEACH TRANSPORTATION PLANNING AGENCY
AND EXTERNAL AUDITOR for
FINANCIAL STATEMENT PREPARATION and AUDITING SERVICES**

This Agreement is made as of this 26 day of June, 2025, by and between the Palm Beach MPO d/b/a the Palm Beach Transportation Planning Agency, an entity created pursuant to the provisions of Chapters 163 and 339, Florida Statutes (F.S.), (hereinafter referred to as the "TPA") located at 301 Datura Street, West Palm Beach, FL 33401 and **Citrin Cooperman & Company, LLP, a New York Limited Liability Partnership**, authorized to do business in the State of Florida and whose principal place of business is located at 6550 N Federal Highway, 4th Floor Ft Lauderdale, FL 33308, (hereinafter referred to as the "AUDITOR").

WITNESSETH

WHEREAS, the AUDITOR was selected to provide the Services via RFP No. FY25-04 in compliance with the TPA Procurement Policy and Section 218.39 and 218.391, Florida Statutes.

WHEREAS, the TPA has requested the services of the AUDITOR to provide annual financial statements and audits of the TPA's financial statements, internal controls, grant compliance program, and single audit as more specifically described in the Scope of Services (also referred to as the "Scope" or "Work") attached hereto as "Exhibit A" and incorporated into and made a part of this Agreement; and

WHEREAS, the TPA agrees to provide all documentation, reports, access, and communications necessary to support the efficient audit process; and

WHEREAS, the TPA agrees to fund the costs associated with the performance of the Scope of Services; provided, however, that this funding obligation is contingent upon the Florida Department of Transportation's (hereinafter referred to as "FDOT") approval of this Agreement, a determination by FDOT that said costs are "eligible project costs" for which the TPA will be reimbursed, and FDOT's approval of each invoice submitted by the TPA to FDOT for reimbursement under the TPA's Joint Participation Agreements (hereinafter referred to as "JPA") with FDOT.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and obligations set forth herein, the parties agree as follows:

Section 1. Incorporation of Facts; Definitions.

- A. The facts of statements set forth above, in the preamble and recitals ("WHEREAS" clause) to this Agreement, are true and correct and incorporated into and made part of the Agreement by reference.
- B. The following terms as used in this Agreement as defined as follows, unless the context affirmative indicates to the contrary:

1. "Agreement" means this instrument, as amended from time to time, and all Exhibits.
2. "Deliverable" means a product or a completed task of the Services to be provided pursuant to this Agreement.
3. "FDOT" means the Florida Department of Transportation.
4. "FHWA" means the U.S. Federal Highway Administration.
5. "FTA" means the U.S. Federal Transit Administration.
6. "U.S. DOT" means the U.S. Department of Transportation, or any of its agencies such as FHWA or FTA, among others.
7. "PTG Agreement" means Public Transportation Grant Agreement.
8. "MPO Agreement" means Metropolitan Planning Organization Agreement.
9. "CFR" means Code of Federal Regulations
10. TPA Fiscal year is July 1 through June 30.
11. "UPWP" means the TPA's adopted "Unified Planning Work Program", as amended from time to time.
12. "JPA" means the Joint Planning Agreement, as amended from time to time.

Section 2. **Purpose.** The purpose of this Agreement is to set forth the various duties, rights, and obligations of parties regarding the provision of services to the TPA.

Section 3. **Representatives.** The TPA's representative during the performance of this Agreement is the Executive Director of the TPA, and the AUDITOR's representative during the performance of this Agreement is [AUDITOR contact] who shall serve as the primary contact. Either party to this Agreement may unilaterally change its representative during the term of this Agreement by giving notice to the other party. A change in the designation of AUDITOR's representative shall not affect AUDITOR'S responsibility for the provision of the Services under this Agreement.

Section 4. **Effective Date, Term, and Renewal.** This Agreement shall take effect on July 1, 2025 and shall remain in full force and effect for a period of three (3) years, expiring June 30, 2028. Three (3) additional twelve (12) month renewal options(s) may be exercised at the TPA's sole discretion. If the TPA elects to exercise the option(s), the TPA will notify the AUDITOR in writing of its election at least fifteen (15) days prior to the expiration of the then current term of the Agreement at the address set forth in Section 36 of this Agreement.

Section 5. **Services.**

- A. The AUDITOR shall commence provision of the Services upon execution of this Agreement and deliver all services, reports, presentations, and/or goods according to the timelines outlined in Exhibit "A". In the event that AUDITOR anticipates any delay in the delivery of any items as part of its responsibilities under this Agreement, AUDITOR shall promptly notify the TPA of such delay. Upon receipt of such notice, the TPA may elect to terminate the Agreement. The Services are governed by this Agreement and may only be changed by written instrument signed by both parties.

- B. The AUDITOR shall comply with all applicable Federal, State, and local laws, Executive Orders, ordinances, and regulations relevant to the Services identified under this Agreement. If any provision of this Agreement requires the AUDITOR to violate any Federal, State, or local law, Executive Order, ordinance, or regulation, AUDITOR will immediately notify the TPA in writing of the appropriate changes and modifications that are necessary to proceed with the Services in compliance with the law.
- C. This Section 5. shall survive the termination of this Agreement.

Section 6. **Payments.**

- A. The maximum amount to be paid by the TPA to the AUDITOR under this agreement for the Services each year is as follows:

Year Ending June 30,	Amount (dollars in United States currency)
2026	\$43,000
2027	\$44,000
2028	\$45,000
Optional Years*	
2029	\$46,000
2030	\$47,000
2031	\$48,000

*Only applicable if the TPA exercises the option to extend the agreement.

The TPA will not make a separate payment for reimbursable expenses or for additional costs incurred by the AUDITOR for any reason, including reasons outside of AUDITOR's control.

- B. The AUDITOR shall notify the TPA upon substantial percentage (%) completion of the Services and submit an invoice for the percentage (%) complete. All invoices submitted by the AUDITOR shall be itemized in sufficient detail so that the TPA and any other governmental entity with oversight over expenditures made pursuant to this Agreement may perform proper pre and post United States Department of Transportation (hereinafter referred to as "U.S. DOT") or FDOT required audits of the invoices and determine that the Services have been properly performed.
- C. Invoices received from the CONSULTANT will be reviewed and approved by the TPA's representative, indicating that services have been rendered in conformity with this Agreement and then will be sent to the Finance Department for payment. Each invoice shall be accompanied by the corresponding deliverables previously approved by the TPA's representative so that the TPA and any other governmental agency with oversight over expenditures made pursuant to this Agreement may perform proper pre and post-audits of the bills and determine that services have been rendered towards the completion of the Work in conformity with the requirements of this Agreement, the UPWP, 23 CFR 450.314 and Section 339.175, Florida Statutes ("F.S.") Invoices shall cite the contract number, provide a breakdown of hours worked and applicable rates as per the rate table in Exhibit B, and shall contain an original signature of an authorized AUDITOR official. Invoices will normally be paid within thirty (30) days following the TPA's representative

approval. Payments will be remitted to the AUDITOR at the address set forth in Section 36 of this Agreement or such other address as is designated in writing by the AUDITOR to the TPA.

- D. In order for each party to close its books and records, the AUDITOR will clearly state "final invoice" on its last and final billing. This certifies that all Services have been properly completed, provided to, and approved by the TPA and all charges and costs have been invoiced to the TPA. Since this account will thereupon be closed, any and all other future charges, if not properly included on this final invoice, are waived by the AUDITOR. All invoices must be submitted within ninety (90) calendar days of the expiration date of this Agreement. Invoices submitted thereafter will not be eligible for payment, unless this requirement is waived, in writing, by the TPA's Executive Director and the TPA can receive payment under its JPA with the FDOT.

Section 7. Availability of Funds. The TPA's performance and obligation to pay under this Agreement is contingent upon its receipt of funds, as a grantee or funding recipient of FDOT or the U.S. DOT or an agency thereof, which funds are to be used for the purposes of this Agreement. In addition, the TPA shall not be obligated to perform or pay for any services to be provided under this Agreement, including reimbursement of costs and expenses if:

- A. FDOT or U.S. DOT has not approved this Agreement;
- B. FDOT or U.S. DOT determines that any of the services provided or to be provided, including reimbursement of costs or expenses are not "eligible project costs" for which the TPA may be reimbursed;
- C. FDOT or U.S. DOT shall not approve any requisition or invoice submitted by the TPA to FDOT for reimbursement; or
- D. FDOT or U.S. DOT shall terminate or cancel its JPA with the TPA or fail to fully fund its obligations thereunder. The TPA's failure to receive funds or the revocation of funding shall constitute a basis for the TPA's termination of this Agreement for convenience.

Section 8. Reports and Ownership of Documents. All written information associated with this Agreement shall be considered a Public Record open to public inspection subject to the provisions of Chapter 119, F.S., unless otherwise made confidential or exempt under Florida law. All documents, papers, letters, drawings, maps, books, tapes, photographs, films, characteristics, sketches, programs, data-base reports, data processing software, material, websites/web pages, and other data developed under or arising from this Agreement, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency, whether public or private but acting on behalf of the AUDITOR or the TPA (hereinafter referred to as "Public Record" or "Public Records"), shall be the shared property of the TPA, AUDITOR, and any agencies that have provided funding but may be reused by the TPA and the AUDITOR.

- A. The AUDITOR shall deliver to the TPA's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the TPA under this Agreement.
- B. To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed,

or supplied by the TPA or at its expense will be kept confidential by AUDITOR and will not be disclosed to any other party, directly or indirectly, without the TPA's prior written consent unless required by a lawful court order.

- C. All covenants, agreements, representations and warranties made herein, or otherwise made in writing by the AUDITOR pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.
- D. The AUDITOR acknowledges that it is subject to Florida's Public Records Law and agrees that it shall comply with the requirements of said law. The AUDITOR further agrees that the TPA may unilaterally terminate this Agreement (and such termination will be for cause) if the AUDITOR refuses to produce or to allow public access to any Public Records, or does not produce or allow access within a reasonable period of time after a request for Public Records has been received. The AUDITOR agrees that it shall not initiate or take any action against the TPA, if the TPA terminates this Agreement because of the AUDITOR's failure to comply with Florida's Public Records Law. Notwithstanding the foregoing, refusal of the AUDITOR to allow public access to such Public Records shall not constitute ground(s) for unilateral cancellation of this Agreement by the TPA, if pursuant to direction of the TPA, the AUDITOR withholds access to said Public Record, because it is confidential or exempt from disclosure status pursuant to federal or Florida law. Further, if a request for a Public Record is made to the AUDITOR, upon the furnishing of that Public Record to the requestor, the TPA shall be promptly notified and furnished, at no cost, with a similar copy of the Public Record.
- E. To the extent required by law, documents prepared pursuant to this Agreement are subject to Florida's Public Record Law. The AUDITOR agrees to keep and maintain Public Records in the AUDITOR's possession or control in connection with their performance under this Agreement. The AUDITOR additionally agrees to comply specifically with the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the TPA and the public to all documents subject to disclosures under applicable law. The AUDITOR shall ensure that Public Records that are confidential or exempt, as provided by Florida or federal law, from Public Records disclosure requirements are not disclosed, except as authorized by law and as approved by the TPA, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TPA.
- F. Upon request from the TPA's custodian of Public Records, the AUDITOR shall provide the TPA with a copy at no cost to the TPA of the requested records. Unless otherwise provided by law, copies of any and all Public Records are and shall remain the property of the TPA.
- G. All Public Records held by the AUDITOR must be retained for a period of five (5) years or such later date as may be provided by Florida's governmental Public Records retention schedules, whichever date shall be later in time.
- H. Upon completion of this Agreement or in the event of termination by either party, at the request of the TPA copies of any and all Public Records relating to the Agreement in the possession of the AUDITOR related to this Agreement shall be delivered by the AUDITOR to the TPA, at no cost to the TPA, within forty-five (45) days (unless the TPA advises the AUDITOR that it already has copies of those Public Records). Unless the TPA advises the AUDITOR that it already has copies of those Public Records, copies of all such records stored electronically by the AUDITOR

shall be delivered to the TPA in a format that is compatible with the TPA's information technology systems. Once the Public Records have been delivered upon completion or termination of this Agreement, the AUDITOR may destroy any and all duplicate Public Records that are exempt or confidential and exempt, as defined by Florida or Federal law, from Public Records disclosure requirements, pursuant to law.

- I. Notwithstanding anything contained herein, the AUDITOR further agrees to:
 1. Keep and maintain public records that ordinarily and necessarily would be required by the TPA in order to perform the Services;
 2. Provide the public with access to public records on the same terms and conditions that the TPA would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law;
 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law;
 4. Meet all requirements for retaining public records and transfer, at no cost to the TPA, all public records in possession of the AUDITOR upon termination of the Agreement, and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the TPA in a format that is compatible with the information technology system of the TPA, as determined by the TPA. Notwithstanding any language to the contrary, AUDITOR shall be entitled to retain one archival copy of the public records as a part of its retention policies which shall be subject to the confidentiality provisions herein.

Section 119.0701(2)(a), Florida Statutes, Disclosure.

IF THE AUDITOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE AUDITOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**TPA Records Custodian
561.725.0800
info@PalmBeachTPA.org
Palm Beach TPA, 301 Datura Street, West Palm Beach, Florida 33401**

The name and address of the custodian of Public Records may be unilaterally changed from time to time by the TPA by affording to the AUDITOR notice as provided in Section 36 of this Agreement.

- J. This Section 8. shall survive the termination of this Agreement.

Section 9. Access and Audits.

- A. The AUDITOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Work for at least five (5) non-calendar fiscal years after completion or termination of this Agreement, except in the event of litigation or settlement

of claims arising from the performance of this Agreement, the AUDITOR shall maintain such records until notified by the TPA that the litigation or claims have been concluded and resolved. The AUDITOR shall maintain all records in Palm Beach County or such other location in the State of Florida approved by the TPA's Contract Representative in its sole discretion.

- B. The AUDITOR shall comply and cooperate with any audit, monitoring procedures, accounting process or other processes deemed appropriate by the TPA or FDOT, including but not limited to site visits and limited scope audits. FDOT, the State of Florida Chief Financial Officer, Comptroller or Auditor General, the USDOT, Federal Highway Administration (hereinafter referred to as "FHWA"), Federal Transit Administration (hereinafter referred to as "FTA") or their authorized employees and representatives, and any agency thereof, shall have access to and the AUDITOR shall make available its books, records, and documents related to the performance of this Agreement, for the purpose of inspection, audit or reproduction during normal business hours at the TPA's or the AUDITOR's place of business.

Section 10. Preparation of Documents, Certifications and Reports. Should the TPA be required by FDOT or an agency of the Federal or State government, including but not limited to the USDOT, or any agency thereof, to provide any certifications, documents or reports related to or produce as a result of this Agreement, the AUDITOR will promptly cooperate and assist the TPA with the preparation of such at no cost to the TPA or any agency of the Federal or State government.

Section 11. No Agency Relationship. Nothing contained in this Agreement or in any contract of the AUDITOR's shall create an agency relationship between the TPA and the AUDITOR. Neither party shall be deemed to have assumed any liability for the negligent, intentionally wrongful, or wrongful acts or omissions of the other party, or of its officers, employees, servants, or agents. In addition, nothing contained herein shall be construed as a waiver of sovereign immunity by either party or a waiver of the liability limits set forth in Section 768.28, F.S.

Section 12. FDOT Funded Project.

- A. This Agreement is funded in whole or in part with funds received from FDOT by the TPA. The expenditure of such funds is subject to the terms and conditions of any agreement between the TPA and FDOT providing funding for this Agreement. The AUDITOR shall not perform any act, fail to perform any act or refuse to comply with TPA requests which may cause the TPA to be in violation of any term or condition of its JPA with FDOT or cause FDOT or USDOT to refuse to approve a requisition or invoice for payment or reimbursement submitted by the TPA. The AUDITOR will immediately remedy any deficiency or violation found by the TPA upon notice of such from the TPA, or alternatively, and in addition to any other right to terminate this Agreement, the TPA may terminate this Agreement by providing written notice to the AUDITOR. In the event of termination, the AUDITOR will be paid by the TPA for services satisfactorily rendered through the effective date of termination; provided, that, no circumstance(s) exists which would limit or restrict the TPA's obligation to pay, as set forth in this Agreement, including but not limited to those described in Section 7. The TPA's obligation to pay the AUDITOR is contingent upon the TPA's receipt of funds from the FDOT for the purposes of this Agreement.
- B. If any provision of this Agreement requires the AUDITOR to violate any federal, state or local law or regulation, the AUDITOR will at once notify the TPA in writing of the appropriate changes and modifications that are necessary to enable it to go forward with the Work in compliance

with law.

Section 13. Termination. This Agreement may be terminated by the AUDITOR for cause upon thirty (30) days written notice to the TPA's representative. It may also be terminated by the TPA, in whole or in part, for cause, immediately upon written notice to the AUDITOR, and without cause and for the convenience of the TPA upon five (5) days written notice to the AUDITOR. Notwithstanding the forgoing or anything in this Agreement to the contrary, termination by the TPA shall not become effective until written notice of termination has actually been received by the AUDITOR at its address set forth in this Agreement or other address designated in writing by the AUDITOR in a notice to the TPA as set forth in Section 37 of this Agreement. The AUDITOR shall not be entitled to any anticipated lost profits on uncompleted Work or other damages because of the TPA's termination of this Agreement for convenience. The AUDITOR shall be paid for services rendered to the TPA's satisfaction through the date of termination except, if the AUDITOR is in default, the TPA shall have a right to set off against the amount that would otherwise be payable to the AUDITOR to compensate the TPA for any actual damages suffered because of the AUDITOR default(s). After receipt of a Termination Notice from the TPA, except as otherwise directed by the TPA, the AUDITOR shall:

- A. Stop work on the date and to the extent specified.
- B. Incur no further costs or place orders for materials, services, or facilities, except as may be necessary to complete that portion of the Work not terminated; provided, that the AUDITOR has obtained the TPA's agreement that such must be completed.
- C. Terminate and settle all orders and subcontracts relating to the performance of the terminated Work.
- D. Transfer all Work in process, completed Work, and other materials related to the terminated Work to the TPA.
- E. Continue and complete all parts of the Work that have not been terminated and prepare all necessary reports and documents required under the terms of this Agreement, up to the date of termination, as requested by the TPA's Contract Representative.

Section 14. Indemnification. The AUDITOR shall save, reimburse, defend, indemnify and hold the TPA, and their respective agents, employees, volunteers and elected officers harmless from and against claims, liability, expense, loss, cost, damages or causes of action of every kind or character, breach of warranty, breach of representation, and breach of contract, arising during and as a result of or related in any manner to the extent of the AUDITOR's gross negligence, willful misconduct, or fraud. The obligation to indemnify shall be limited to actual out-of-pocket damages.

The TPA shall notify the AUDITOR of any actual or prospective claim for which indemnification may be sought upon actual knowledge of that claim; provided, however that failure to give notice shall not relieve the AUDITOR of its obligations under this indemnification clause except to the extent that the AUDITOR is materially prejudiced by that failure. In the event that any third party claim is made, the AUDITOR shall have the right to undertake and control the defense of such action; provided, that the TPA may undertake and control that defense in the event of a material failure of the AUDITOR to undertake and control it, without prejudice to any right under this indemnification clause. This indemnification clause shall survive the termination of and term of this Agreement. The AUDITOR

agrees to waive the ability to dispute claims or fees. The AUDITOR and the TPA both agree that this Agreement is not a construction agreement as provided in Section 725.06, F.S. This section shall survive the termination of this Agreement.

Section 15. Claims/Damages. The TPA and the AUDITOR each acknowledge the waiver of sovereign immunity for liability in tort contained in Section 768.28, F.S., the State of Florida's partial waiver of sovereign immunity, as waived or modified by the Florida Legislature, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or property damage caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The TPA and the AUDITOR agree to be responsible for all such claims, and damages, in tort, to the extent and limits provided in Section 768.28, F.S., as waived or modified by the Florida Legislature, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense that the parties may have under such statute, nor as consent to be sued by third parties. Nothing herein is intended to serve as a waiver of sovereign immunity by the TPA nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The TPA is subject to section 768.28, Florida Statutes, as may be amended from time to time. The AUDITOR agrees that neither the TPA nor FDOT shall be subject to any obligations or liabilities to any third-party AUDITOR, subcontractor or any other entity pertaining to any matter resulting from this Agreement. Notwithstanding the foregoing and to the extent permitted by law, AUDITOR agrees to indemnify and hold the TPA harmless from any claim, damage, loss, cost, charge or expense to the extent of any error, omission or negligent act of the AUDITOR, its officers, employees, and agents, in the performance of this Agreement, except that the AUDITOR shall not be responsible to the extent of any error, omission or negligent act of the TPA or its officers or employees during the performance of this Agreement. This section shall survive the termination of this Agreement.

Section 16. Insurance. It shall be the responsibility of the AUDITOR to provide evidence of the following minimum amounts of insurance coverage or legal liability protection:

- A. **Required Insurance Coverages.** Without waiving the right to Sovereign Immunity as provided by Section 768.28, F.S., and as a minimum, the AUDITOR and the TPA agree that the limits of insurance coverage which the AUDITOR is to procure and maintain through the term of this Agreement, on behalf of itself, will procure and maintain (or cause to be procured and maintained by any AUDITOR subcontractor) the following coverages:

Commercial General Liability. During the term of this Agreement, the AUDITOR, on its behalf, shall maintain Commercial General Liability Insurance. Coverage shall include, as a minimum: (i) Premises Operations, (ii) Personal Injury Liability, (iii) Property Damage, (iv) Expanded Definition of Property Damage, (v) Products and Completed Operations, and (vi) Incidental Contractual Liability in both the primary and any umbrella policy coverage. The minimum limits acceptable shall be not less than \$1,000,000 Combined Single Limit for bodily injury or death of one or more persons, or property damage in aggregate. The use of an excess/umbrella liability policy to achieve the limits required by this paragraph will be acceptable as long as the terms and conditions of the excess/umbrella policy are no less restrictive than the underlying Commercial General Liability policy.

1. **Workers' Compensation and Employers Liability.** The AUDITOR shall maintain Workers' Compensation Insurance, employer's liability insurance and any other insurance as required by Florida Statutes. In addition, the AUDITOR must obtain Employers' Liability Insurance with limits of not less than: (i) \$500,000 Bodily Injury by Accident, and (ii) \$500,000 Bodily Injury by Disease, each employee adjusted periodically as may be required by law from time to time. The Workers' Compensation insurance shall extend to all employees of the AUDITOR and, if required by law, shall also extend to volunteers of the AUDITOR.
 2. **Business Automobile Liability.** During the term of this Agreement, the AUDITOR shall maintain Business Automobile Liability Insurance with coverage extending to all Owned, Non-Owned and Hired autos used by the AUDITOR in connection with its operations under this Agreement. The minimum limits acceptable shall be \$1,000,000 Combined Single Limit ("CSL"). The use of an excess/umbrella liability policy to achieve the limits required by this paragraph will be acceptable as long as the terms and conditions of the excess/umbrella policy are no less restrictive than the underlying Business Automobile Liability policy.
 3. **Professional Liability.** The AUDITOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$2,000,000 Each Claim. For policies written on a "Claims Made" basis, the AUDITOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The insurance policy providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" basis, the policy must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, the AUDITOR shall purchase a SERP with a minimum reporting period not less than 3 years. The AUDITOR shall provide this coverage on a primary basis. If the insurance policy is a "claims made" type of coverage, the AUDITOR shall maintain the insurance for at least 780 days after the completion of all work under this Agreement.
- B. **Evidence of Insurance.** Prior to the AUDITOR receiving any Work pursuant to this Agreement, satisfactory evidence of the required insurance shall be provided to the TPA. Satisfactory evidence shall be either: (i) a copy of the declaration page certified by the insurer to the TPA; or (ii) an insurance company certified copy of the actual insurance policy. The TPA, at its sole option, may from time to time request a certified (by the insurer) copy of any or all insurance policies required by this Agreement. The AUDITOR, in the manner provided in this Agreement for giving notice, shall forward to the TPA any of the instruments required hereunder within thirty (30) days of request by the TPA or, on not less than a yearly basis, not later than the effective date of any policy or policy renewal. If the AUDITOR does not furnish proof of insurance as set forth in this section within thirty (30) days of the receipt of a request therefore from the TPA or on not less than a yearly basis, or if the AUDITOR fails to at all or any times to maintain adequate insurance as required herein, the TPA may, but shall not be obligated to obtain insurance to satisfy this Section 16. The declaration page or policy shall list the "Palm Beach MPO, d/b/a the Palm Beach TPA, its successors and assigns", as the named "additional insured." The AUDITOR's failure to provide evidence of coverage prior to the time the AUDITOR is to commence performance shall be grounds for the TPA's cancellation or termination of this Agreement. If the AUDITOR elects to self-insure during the term of this Agreement, it shall provide evidence thereof in a form

deemed satisfactory to the TPA and have received the TPA's approval in writing thereof prior to terminating the AUDITOR's insurance coverage.

- C. When obtaining new insurance, the AUDITOR shall obtain evidence of insurance as set forth in Section 16. containing a statement that unequivocally provides that not less than thirty (30) days written notice to TPA will be given prior to cancellation or non-renewal of coverage thereunder. In the event the AUDITOR is unable to provide the proper evidence of insurance as provided in Section 16.B. above that satisfy the notice requirements of this paragraph, the TPA's Executive Director may, on a case by case basis and for good cause shown (*e.g.*, the AUDITOR is unable to furnish proper evidence of insurance that complies in all respects with the notice requirements after diligently attempting to obtain such evidence), waive or vary these notice requirements, but the TPA Executive Director shall not be obligated to waive or vary these requirements.
- D. All insurance must be acceptable to and approved by TPA as to form, types of coverage, and acceptability of the insurers providing coverage.
- E. General Insurance Provisions.
 - 1. The AUDITOR, at its sole cost and expense, shall procure and at all times during the term of this Agreement, maintain the insurance specified in this Section 16. In addition, the AUDITOR shall ensure that their subcontractors, and any other AUDITORS in privity with the AUDITOR shall maintain the insurance coverages set forth below. Any attorneys' or paralegals' fees shall be in addition to the coverage or limits set forth herein.
 - 2. All insurance to be obtained will name the TPA, as its respective interests may appear, and will require the insurer to give written notice of any cancellation or change to be sent to the AUDITOR and the TPA at least thirty (30) days prior to cancellation, termination, or material change.
 - 3. Unless otherwise approved by the TPA, in its sole discretion, or in the case of professional liability coverage as permitted by this Agreement, all insurance shall be Occurrence Form, to the extent that such form of insurance is available on commercially reasonable terms, policies of insurance, shall be with an insurance company licensed by the State of Florida Insurance Commissioner, or said Commissioner's successor, to issue the policy presented, issued by a company having an A.M. Best's Rating Guide financial strength rating of A or better and a financial size category of VII or better. In the event that A.M. Best's Rating Guide is discontinued, the TPA and the AUDITOR shall amend this Agreement to provide a successor rating service and ratings, which in the TPA's reasonable judgment are similar to what is required by this Agreement. "Claims made" insurance shall not be acceptable insurance under this Agreement.
 - 4. The AUDITOR, and its general AUDITOR, any other AUDITORS in privity with either the AUDITOR shall be solely responsible for all deductibles and retentions contained in their respective policies.
 - 5. The TPA will be included as an "Additional Insured" on the Commercial General Liability, any Umbrella Liability, and Business Automobile Liability policies. The AUDITOR's insurance policies will be primary over any and all insurance available to the TPA, whether purchased or not, and must be non-contributory.

6. The terms and conditions of all policies may not be less restrictive than those contained in the most recent edition of the policy forms, as revised from time to time, issued by the Insurance Services Office (hereinafter referred to as "ISO") or the National Council on Compensation Insurance hereinafter referred to as ("NCCI"). If ISO or NCCI issues new policy forms during the policy term of the required insurance, the AUDITOR will not be required to comply with the new policy forms until the expiration date of the insurance policy affected by the change.
 7. The AUDITOR will ensure that each insurance policy obtained by it or by any subcontractor on the Work provides that the insurance company waives all right of recovery by way of subrogation against the TPA in connection with any damage covered by any policy.
- F. Premiums and renewals. The AUDITOR shall pay as the same become due all premiums for the insurance required by this Section 16, shall renew or replace each such policy and deliver to the TPA evidence of the payment of the full premium thereof prior to the expiration date of such policy.
- G. Adequacy of Insurance Coverage.
1. The adequacy of the insurance coverage required by this Section 16 may be reviewed periodically by the TPA in its reasonable discretion. The TPA may request a change in the insurance coverage, if it is commercially reasonable; provided, that such coverage is available at commercially reasonable rates.
 2. The AUDITOR has the right to contest the request for a change in insurance but must be commercially reasonable.
- H. TPA right to procure insurance. If the AUDITOR or its subcontractor refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the TPA, at its option, may but shall not be obligated to, procure or renew such insurance. Regardless of whether the TPA decides to obtain insurance, that shall not excuse the AUDITOR's responsibility for any loss, damages, or injury.
- I. Waiver of Subrogation. A full waiver of subrogation shall be obtained from all insurance carriers. The AUDITOR shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against the TPA in connection with any damage covered by any policy.

Section 17. **Personnel.** The AUDITOR warrants that all professional services shall be performed by skilled and competent personnel to the highest professional standards in the field. As may be required by Florida law from time to time, said personnel shall be licensed by, and in good standing with, the State of Florida.

- A. The AUDITOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the TPA nor shall they be considered as joint employees or volunteers of the TPA.

- B. All of the services required hereunder shall be performed by the AUDITOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, licensed, authorized or permitted under state and local law to perform such services.

Section 18. Public Entity Crimes. The AUDITOR represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is an auditor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to TPA, may not submit a bid on a contract with TPA for the construction or repair of a public building or public work, may not submit bids on leases of real property to TPA, may not be awarded or perform work as an AUDITOR, supplier, subcontractor, or consultant under a contract with TPA, and may not transact any business with TPA in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from TPA's competitive procurement activities. In addition to the foregoing, the AUDITOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether AUDITOR has been placed on the convicted vendor list.

Section 19. Discriminatory Vendor List. The AUDITOR hereby certifies that it has not been placed on Florida's Department of Management Services' Discriminatory Vendor List as provided under Section 287.134, F.S.

Section 20. E-Verify.

- A. The TPA has agreements with FDOT which require the TPA to agree and assure the FDOT that the U.S. Department of Homeland Security's E-Verify System (System) will be used to verify the employment eligibility of AUDITOR's employees and the employees of the AUDITOR's subconsultants, performing Work pursuant to this Agreement. In addition, Florida law requires that the E-verify system be used by the AUDITOR. See s. 448.095, F.S. Accordingly, the AUDITOR agrees that it will utilize the System, in accordance with the law and the regulations applicable to the System, to verify the employment eligibility of its employees and that it will require any subconsultant used in the performance of the Work to verify the employment eligibility of its employees. The AUDITOR shall provide evidence that it and its subconsultants have so verified the employment eligibility of all employees to the TPA and FDOT on forms and in the manner required by the TPA.
- B. The AUDITOR acknowledges that the TPA has received and will seek funds from the FDOT, and that such funds may be used to pay AUDITOR for the services it provides under this Agreement. The AUDITOR further acknowledges that FDOT has advised recipients of FDOT funds that it will consider an AUDITOR's employment of unauthorized aliens to be a material violation of the Immigration and Nationality Act and this Agreement. The AUDITOR affirms to the TPA that it will not employ unauthorized aliens or take any other act which may cause the TPA to be in violation of any term or condition of any agreement between the TPA and the FDOT.

Section 21. Title VI – Nondiscrimination Policy Statement.

The Palm Beach Transportation Planning Agency (TPA) values diversity and both welcomes and actively seeks input from all interested parties, regardless of cultural identity, background, or income level. Moreover, the TPA does not tolerate discrimination in any of its programs, services, or activities. The TPA will not exclude participation in, deny the benefits of, or discriminate against anyone on the grounds of race, color, national origin, sex, age, disability, religion, income, or family status. Additionally, the TPA extends these same assurances to any protected class as recognized by any of the local governments within its service area. The TPA will actively work to ensure inclusion of everyone in our community so that our programs, services, and activities represent the diversity we enjoy.

The purpose of the TPA Title VI program is to establish and implement procedures that comply with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Americans with Disabilities Act of 1990 (ADA), as well as other related federal and state statutes and regulations. These procedures have been adopted to conform to Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) regulations, as well to Florida Department of Transportation (FDOT) guidelines.

During the term and the performance of this Agreement, the AUDITOR agrees for itself, its assignees and successors in interest as follows:

- A. Compliance with Regulations: The AUDITOR shall comply with the nondiscrimination regulations applicable to federally assisted programs of the USDOT set forth at 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as "Regulations"). Said Regulations are hereby incorporated into and made a part of this Agreement by reference.
- B. Nondiscrimination: The AUDITOR, with regard to the work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The AUDITOR shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21, as it may be amended from time to time, of the Regulations, including employment practices if this Agreement covers a program set forth in Appendix B of the Regulations. The AUDITOR agrees to comply with the provisions set forth in attached Appendix "A", including the AUDITOR's responsibility to incorporate the provisions in subcontracts, throughout the term of this Agreement.
- C. Solicitations for subcontractors, including Procurements of Materials and Equipment: In all solicitations made by the AUDITOR, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the AUDITOR of the AUDITOR's obligations under this Agreement and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- D. Information and Reports: The AUDITOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by FDOT, Federal Highway Administration (hereinafter referred to as "FHWA"), FTA, Federal Aviation Administration (hereinafter referred to as "FAA"), and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the AUDITOR is in the exclusive possession of another who fails or refuses to furnish this information, the AUDITOR shall so certify to FDOT, FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration as appropriate, and

shall set forth what efforts it has made to obtain the information.

- E. Sanctions for Noncompliance: In the event of the AUDITOR's noncompliance with the nondiscrimination provisions of this Agreement, FDOT shall impose such contract sanctions as it or FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the AUDITOR until the AUDITOR complies; and/or
 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The AUDITOR shall include the provisions of paragraphs A. through E. of this section in every subcontract, including procurements of materials and leases of equipment, unless excepted by the Regulations, or directives issued pursuant thereto. The AUDITOR shall take such action with respect to any subcontract or procurement as FDOT, FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event the AUDITOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the AUDITOR may request FDOT to enter into such litigation to protect the interests of FDOT, and, in addition, the AUDITOR may request the United States to enter into such litigation to protect the interests of the United States.
- G. The AUDITOR does hereby represent and certify that it will comply with all the requirements imposed by Title VI of the Civil Rights Acts of 1964 and Title VII of the Civil Rights Act of 1968, as they have been and may be modified from time to time (42 U.S.C. 2000d, *et. seq.* and 3601 *et. seq.*), and all applicable implementing regulations of the USDOT and its agencies.
- H. The AUDITOR does hereby represent and certify that it will comply with all the requirements of the Americans with Disabilities Act (42. U.S.C. 12102, *et. seq.*) and all applicable implementing regulations of the USDOT and its agencies.
- I. The AUDITOR shall report all grievances or complaints pertaining to its actions and obligations under this Article to the TPA.
- J. Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 Stat. 252), (prohibits discrimination on the basis of race, color, national origin), and 49 CFR Part 21. The Uniform Relocation Assistance and Real Estate Acquisition Policies Act of 1970 (42 U.S.C. §4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal Aid highway Act of 1973 (23 U.S.C. §324 *et seq.*) (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794 *et seq.*), as amended; (prohibit discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on age, creed, color, national origin, or sex); The Civil rights Restoration Act of 1987 (P.L. 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-

recipients and CONSULTANTS, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R., parts 37 and 38; The Federal Aviation Administration's Non-discrimination status (49 U.S.C. §47123)(prohibits discrimination on the basis race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority and low-income populations by discouraging programs, policies, and effects on minority and low-income populations); Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. §1681 et seq.).

- K. Required Activities for Compliance. Pursuant to Section 9 of the U.S. DOT Order 1050.2A, the TPA assures the Florida Department of Transportation (FDOT) that no person shall on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI of the Civil Rights Act of 1992 and other nondiscrimination authorities be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity.

Section 22. **Conflict of Interest.**

- A. The AUDITOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Section 112.311, Florida Statutes. The AUDITOR further represents that no person having any such interest shall be employed to assist in the performance of this Agreement.
- B. The AUDITOR shall promptly notify the TPA's representative, in writing, by certified U.S. mail, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the AUDITOR's judgment, or the quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest, or circumstance, the nature of work that the AUDITOR may undertake and advise the TPA as to whether the association, interest, or circumstance would constitute a conflict of interest if entered into by the AUDITOR. The TPA may notify the AUDITOR of its opinion as to whether a conflict exists under the circumstances identified by the AUDITOR. If, in the opinion of the TPA, the prospective business association, interest or circumstance would constitute a conflict of interest by the AUDITOR, then the AUDITOR shall immediately act to resolve or remedy the conflict. If the AUDITOR shall fail to do so, the TPA may terminate this Agreement for cause.
- C. The AUDITOR shall not enter into any contract, subcontract, or arrangement in connection with the Work (hereinafter referred to as "Project," "Scope," or "Scope of Services") or any property included or planned to be included in the Work, with any officer, director or employee of the TPA or any business entity of which the officer, director or employee or the officer's, director's or

employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's director's or employee's spouse or child, or any combination of them, has a material interest.

- D. "Material Interest" means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of any business entity.
- E. The AUDITOR shall not enter into any contract or arrangement in connection with the Work or Project, with any person or entity that was represented before the TPA by any person, who at any time during the immediately preceding two (2) years, was an officer, director or employee of the TPA.
- F. The AUDITOR agrees for itself and shall insert in all contracts entered into in connection with the Work or Project or any property included or planned to be included in the Work or Project, and shall require its AUDITORS to insert in each of their subcontracts, the following provision:

No Board member, officer, or employee of the TPA during his tenure or for two (2) years thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

- G. As provided by 23 CFR §1.33 relating to conflicts of interest, the AUDITOR agrees that no official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for and in behalf of the State. The State of Florida or the TPA may enforce the requirements of this section.

Section 23. **Independent Auditor Relationship.** The AUDITOR is and shall be, in the performance of the Work, services and activities under this Agreement, an Independent AUDITOR and not an employee, agent, or servant of the TPA. All persons engaged in any of the Work or services performed pursuant to this Agreement shall, at all times and in all places, be subject to the AUDITOR's sole direction, supervision, and control. The AUDITOR shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects, the AUDITOR's relationship and the relationship of its employees to the TPA shall be that of an Independent AUDITOR and not as employees or agents of the TPA. The AUDITOR does not have the power or authority to bind the TPA in any promise, agreement, or representation.

Section 24. **Assignment.** Neither this Agreement nor any interest herein shall be assigned, subcontracted, conveyed, transferred, or otherwise encumbered, in whole or in part, by the AUDITOR without the prior written consent of the TPA, which the TPA may deny for any reason. Likewise, subcontractors pursuant to this Agreement must also be approved by the TPA, subject to a right of

denial for any reason. The parties agree that additional consideration incorporated into the payment schedule of this Agreement has been made for this provision.

Section 25. Contingent Fees. The AUDITOR warrants that it has not employed or retained any company or person, other than a *bona fide* employee working solely for the AUDITOR, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a *bona fide* employee working solely for the AUDITOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

Section 26. Members of Congress. No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

- A. The AUDITOR agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the TPA, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- B. If any funds other than federal appropriated funds have been paid to the AUDITOR for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Work, the AUDITOR shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions or provide notification to the TPA in any other manner the TPA may allow.
- C. The AUDITOR shall include the two (2) above-stated clauses modified to show the contractual relationship, in all subcontracts it enters into related to the Work.
- D. The AUDITOR may not expend any funds received under this Agreement for lobbying the Florida Legislature or any agency of the State.

Section 27. Application of Federal Requirements. This Agreement is funded, in part, by funds made available by the FTA. Additional terms and conditions are set forth in Exhibit "C" attached hereto and made applicable to the AUDITOR and a part of this Agreement by this reference. The AUDITOR shall perform the duties and obligations described in Exhibit "C" and shall complete the representations and provide any information required therein. This Agreement may be funded with assistance from the FHWA. If so, the TPA will follow, and require the Auditor to comply with, all applicable 3rd party procurement policies in accordance with the Regulations of the U.S. Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time. The Auditor is hereby advised that the applicable FHWA required contractual provisions set forth in Exhibit "D" shall

be set forth in any Contract resulting from this RFP.

Section 28. **Remedies.** This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. No person or entity other than the AUDITOR or the TPA shall have any rights in this Agreement or any remedy against either the AUDITOR or the TPA for a violation of any of the terms and conditions set forth herein or pertaining in any way to the services to be rendered by the AUDITOR to the TPA hereunder.

Section 29. **Enforcement Costs.** Any costs or expenses, including reasonable attorney fees, associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties.

Section 30. **No Waiver.** No waiver of any provisions of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted. Any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.

Section 31. **Captions.** The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 32. **Joint Preparation.** The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

Section 33. **Severability.** Should any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement.

Section 34. **Entirety of Agreement and Modifications.** The TPA and the AUDITOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 35. **Survivability.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

Section 36. **Notice.** Notices, invoices, communications, and payments hereunder shall be deemed made if given in any of the following forms:

- A. By certified U.S. Mail, return receipt requested, postage prepaid, and addressed to the party to receive such notice, invoice, or communication, as set forth below; or

- B. By nationally recognized overnight courier service (*e.g.*, FedEx, UPS, *etc.*) prepaid and addressed to the party to receive such notice, invoice, or communication, as set forth below; or
- C. By hand delivery to the office of the party to whom such notice, invoice, or communication is being given.

All notices, invoices, or communications shall be addressed to a party at the address given below or such other address as may hereafter be designated by notice in writing.

If to the TPA: Palm Beach Transportation Planning Agency
 c/o Executive Director
 301 Datura Street
 West Palm Beach, FL 33401

If to the AUDITOR: Citrin Cooperman
 c/o Stephen Emery
 6550 North Federal Highway, 4th Floor
 Ft. Lauderdale, FL 33308

The foregoing individuals shall also be known in this Agreement as the agency's "Contract Representative."

- D. A notice or communication, under this Agreement, from one party to another party shall be sufficiently given or delivered if dispatched to the party's individual listed in Section 36.C. by hand delivery, or by nationally recognized overnight courier (*i.e.* Federal Express, United Parcel Services, *etc.*) providing receipts, or by U.S. certified mail, postage prepaid, return receipt requested.
- E. Notices; Addresses; Time. Either party may unilaterally change its addressee or address, by giving written notice thereof to the other party pursuant to this Section 36, but the change is not effective until the change notice is actually received by the other party.
- F. Notice given by certified mail, return receipt requested, properly addressed and with postage fully prepaid, is deemed given when deposited in the United States mails within the continental United States, if the notice is thereafter delivered in due course at the address to which properly sent. Notice given by overnight courier, service prepaid, properly addressed is deemed given when deposited with the courier within the continental United States, if the notice is thereafter delivered in due course at the address to which properly sent. Notice given by manual delivery is deemed given only when actually received by the recipient.
- G. Relay of Official Notices and Communications. If the AUDITOR or the TPA receives any notice from a governmental body or governmental officer that pertains to this Agreement or performance pursuant hereto, or receives any notice of litigation or threatened litigation affecting any of the aforementioned subjects, then the receiving party shall promptly send it (or a copy of it) to the other party to this Agreement.

Section 37. No Intended Third-Party Beneficiaries. The parties acknowledge that this

Agreement is not intended to be a third-party beneficiary contract, either express or implied, and confers no rights on anyone other than the TPA and the AUDITOR, and FDOT and USDOT.

Section 38. Disadvantaged Business Enterprises (DBE) and Prompt Payment.

- A. This Agreement is subject to the requirements of 49 CFR Part 26. As required by 49 CFR 26.13, the AUDITOR will not discriminate on the basis of race, color, national origin, or sex in the performance of any USDOT- assisted contract or the requirements of 49 CFR Part 26. The AUDITOR shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the performance of this Agreement. The TPA's DBE Program, as required by 49 CFR Part 26 and approved by DOT is incorporated by reference into this Agreement. Implementation of this program is a legal obligation and the failure to carry out its terms shall be treated as a violation of this Agreement.
- B. Neither the AUDITOR nor any subcontractor it may use in the performance of this Agreement shall discriminate on the basis of race, color, national origin, or sex in the award of or the performance of this Agreement. The AUDITOR shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of this Agreement and the Work associated with this USDOT assisted contract. Failure by the AUDITOR to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy or action as the TPA deems appropriate which may include but is not limited to:
 - 1. Withholding monthly progress payments;
 - 2. Assessing sanctions;
 - 3. Liquidated damages, and/or
 - 4. Disqualifying AUDITOR from future contracts as non-responsible.
- C. AUDITOR shall include the statements set forth in paragraphs A. and B. above in each subcontract or subcontractor contract it lets.
- D. Race Neutral Achievement. In accordance with 49 CFR Part 26.21, and the FDOT DBE Program Plan, DBE participation on FHWA-assisted contracts must be achieved through race-neutral methods. The TPA is required to implement the FDOT DBE Program on any contracts with FHWA funds. FDOT operates a 100% race and gender-neutral DBE program. Therefore, no specific DBE contract goal may be applied to this agreement.
 - 1. The TPA will not require use of DBEs by the AUDITOR as a matter of contract, nor will it seek sanctions for failing to use DBEs.
 - 2. The TPA will not use bidder DBE commitments to evaluate bidder proposals or to select the winning AUDITOR.
 - 3. The TPA will not employ local or regional preferences in the evaluation or award of the contract.
 - 4. The TPA is precluded from using any business program besides the FDOT DBE program. County or municipal small, minority or women's programs will not be used in award, evaluation, or delivery of the contract.

- E. Eligible DBE Participants. Certified DBEs are listed in the Florida Unified Certification Program (UCP) DBE Directory, who by reason of their certification are ready, willing, and able to provide and assist with the services identified in the scope of work. Assistance with locating DBEs and other special services is available at no cost through FDOT's Equal Opportunity Office DBE Supportive Services. More information is available by visiting: <https://www.fdot.gov/equalopportunity/dbecertification.shtm> or calling 850-414-4750.
- F. Only those firms certified by FDOT or other participants in Florida's Unified Certification Program at the time of proposal opening shall be reported. It is the responsibility of the respondent to confirm and document the certification of any proposed DBE.
- G. Availability of Supportive Services. The TPA and FDOT are committed to sustainability and growth of DBEs and other small businesses. The TPA urges the selected AUDITOR to make considered efforts to identify and use these firms. For assistance with locating DBEs, the AUDITOR may access the Florida DBE Directory. Further assistance may be obtained by contacting FDOT DBE supportive services provider at <https://www.fdotdbesupportservices.com/>, 866-378-6653. Supportive services are offered free of charge to DBEs and consultants.
- H. DBE Reporting Requirements.

The Auditor completed and submitted the DBE Bidder Opportunity List form as part of the submission package. The DBE Bidder Opportunity List form is included as an Attachment to this agreement.

The selected AUDITOR is required to complete a Commitments and Payments report. This report must indicate whether the AUDITOR will utilize Disadvantaged Business Enterprises (DBEs) for the awarded contract.

- **No DBEs:** If the AUDITOR indicates no DBE participation, they may proceed with submitting the Commitments and Payments report.

- **DBE Participation:** If the AUDITOR indicates DBE participation, they must provide a detailed list of DBE commitments and subcontractors within the Commitments and Payments report. The AUDITOR is obliged to update the Commitments and Payments report at least every thirty (30) days to reflect on current commitments and payment statuses. The selected AUDITOR may be required to use the FDOT EOC system to report the use (or lack thereof) of DBEs. The AUDITOR may be required to enter both its DBE commitments and subcontractor list in EOC. Once using the FDOT EOC System, the selected AUDITOR must access FDOT at least every thirty (30) days to update commitments and enter EOC payments.

Assistance or information about the FDOT EOC System can be found by contacting the system administrator at eoohelp@dot.state.fl.us.

- I. The AUDITOR will only be permitted to replace a certified DBE subconsultant who is unwilling or unable to perform. If a subconsultant fails to perform or make progress as required by this Agreement and it is necessary to replace the subconsultant to complete the work in a timely fashion, the AUDITOR shall promptly do so, subject to acceptance of the new subconsultant by TPA. The AUDITOR shall notify the TPA immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation of such. The AUDITOR must obtain the TPA's representative's prior approval to substitute a DBE. The AUDITOR shall provide copies of new or amended subcontracts, or documentation of good faith efforts, as required by the TPA. If the AUDITOR fails or refuses to comply in the time specified, the TPA may issue an order stopping all or part of the work and payments therefor until satisfactory action has been

undertaken, terminate this Agreement for noncompliance/default, impose sanctions, or take other action deemed appropriate by the TPA under the circumstances.

- J. The AUDITOR shall provide the TPA with a copy of the AUDITOR's contract with any subconsultant and any other related documentation requested by TPA's representative.
- K. The AUDITOR agrees to maintain in Palm Beach County, Florida or such other location in Florida approved by the TPA's representative, all relevant records, documents of payments and information necessary to document payments to DBEs for at least five (5) years following the termination of this Agreement. In the event litigation is commenced involving or relating to a DBE, the AUDITOR agrees to maintain such records until the conclusion of all litigation and the expiration of any appeal periods. All such records and information shall be immediately made available for reproduction, examination, or inspection upon the request of TPA's representative or any authorized representative of FDOT or the U.S. DOT or any agency thereof. The AUDITOR agrees to require all of its DBE subconsultants to comply with the same records and information maintenance and availability requirements that it is subject to in this Agreement.
- L. Prior to receiving any progress payment due under this Agreement, the AUDITOR shall certify that it has disbursed to all subconsultants and suppliers, having an interest in the Agreement or performing work or providing materials or supplies used by the AUDITOR in its performance of the Work, their pro-rata share(s) of the payment received by the AUDITOR from previous progress payments for all work completed and materials furnished in the previous period, less any retainage withheld by the AUDITOR pursuant to an agreement with a subconsultant for payment, as approved by the TPA and FDOT, and as deemed appropriate by TPA. The AUDITOR shall return all retainage payments withheld by the AUDITOR within thirty (30) days after each subconsultant's work has been satisfactorily completed. The AUDITOR shall not be entitled to any progress payment before certification, unless the AUDITOR demonstrates good cause for not making any such required payment and furnishes written notification of such good cause, acceptable to the TPA, to both the TPA and the affected subconsultants and suppliers.
- M. Within thirty (30) days of the AUDITOR's receipt of any payment(s) received under this Agreement and any final progress payment received thereafter, the AUDITOR shall pay all subconsultants and suppliers having an interest in the Agreement or performing work or providing materials or supplies used by the AUDITOR in its performance of the Work, their pro-rata share(s) of the payment(s), unless the AUDITOR demonstrates good cause, acceptable to the TPA, for not making any required payment(s) and furnishes written notification to the TPA and the affected subconsultants and suppliers within said thirty (30) day period.
- N. Cooperation with TPA Oversight: The TPA is responsible for conducting and documenting oversight of the RFP, bidding process, award, and delivery of the AUDITOR contract for compliance with civil rights authorities. This includes but is not limited to conducting Commercially Useful Function (CUF) reviews on all DBEs used by the selected AUDITOR (or the AUDITOR itself, if a DBE), and by reviewing payments and retainage to ensure subconsultants are paid promptly as defined in Section 5 D. The selected AUDITOR will cooperate fully with TPA oversight efforts, as well as those instituted by FDOT and/or FHWA.
- O. The provisions of this section shall be construed in conformity with any requirement of state or federal law. In the event of any conflict, state or federal law will control the resolution of the conflict.
- P. Sanctions for Noncompliance: The selected AUDITOR is responsible for compliance with this section, both for itself and its subconsultant, if any. Failure to comply with any provision of this section is a material breach of contract and could result in sanctions taken by the MPO or the

primary recipient, FDOT, including but not limited to termination of the contract; withholding progress or final payments; assessing liquidated damages; disqualifying the AUDITOR from future work; or referral of noncompliance determination(s) to the FDOT or USDOT Offices of Inspector General, if appropriate.

- Q. The provisions of this section shall be construed in conformity with any requirement of state or federal law. In the event of any conflict, state or federal law will control the resolution of the conflict.

Section 39. Truth in Negotiations Certificate. Signature of this Agreement by the AUDITOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged by the AUDITOR's most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the TPA determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside AUDITORS. The TPA shall exercise its rights under this section within three (3) years following final payment.

Section 40. Federal and State Taxes. The TPA is exempt from payment of the Florida State Sales and Use Taxes. The TPA may sign or have cause to have signed an exemption certificate submitted by the AUDITOR. The AUDITOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the TPA, nor is the AUDITOR authorized to use the TPA's Tax Exemption Number in securing such materials. The AUDITOR shall be responsible for payment of its own and its share of its employee's payroll, payroll taxes, and benefits with respect to this Agreement.

The AUDITOR shall be responsible for payment of its own and its share of its employee's payroll, payroll taxes, and benefits with respect to this Agreement.

Section 41. Successor and Assigns. The AUDITOR each binds itself and its partners, successors, executors, administrators and assigns to the TPA and other parties and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. The AUDITOR shall not assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the TPA, which the TPA may deny for any reason.

Section 42. Excusable Delays. The AUDITOR shall not be considered in default by reason of any failure in performance if its failure arises out of causes reasonably beyond the control of the AUDITOR and without its fault or negligence. Such causes are limited to, acts of God, force majeure, natural or public health emergencies, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the AUDITOR's request, the TPA shall consider the facts and extent of any failure to perform the Work and, if the AUDITOR's failure to perform was without its fault or negligence, a Work Order's Timeline or Schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the TPA's rights to change, terminate, or stop any or all of the Work at any time. In such even the TPA may terminate this Agreement.

Section 43. Pledge of Credit. The AUDITOR shall not pledge the TPA's credit or make it a guarantor

of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The AUDITOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

Section 44. Florida Law Prevails; Venue

- A. This Agreement shall be governed by the laws of the State of Florida. If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstances shall to any extent, be illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity or becomes unenforceable because of judicial construction, the remaining terms, covenants and conditions of this Agreement, or application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- B. Venue for any disputes arising out of this Agreement and for any actions involving the enforcement or interpretation of this Agreement will be in the State courts of the 15th Judicial Circuit of Palm Beach County, Florida, or the U.S. District Court, Southern District of Florida.

Section 45. Preparation of Documents, Certifications and Reports.

Should the TPA be required by FDOT or an agency of the Federal or State government, including but not limited to the USDOT, or any agency thereof, to provide any certifications, documents or reports related to or produce as a result of this Agreement, the CONSULTANT will promptly cooperate and assist the TPA with the preparation of such at no cost to the TPA or any agency of the Federal or State government.

Section 46. Miscellaneous provisions.

- A. Inspection, Review, Approval, and Audit. It is understood and agreed that all rights of the USDOT relating to inspection, review, approval, and audit of the work, tracings, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America and the State of Florida. Pursuant to Section 20.055(5), F.S., it is the duty of every state officer, employee, agency, special district, board, commission, AUDITOR, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. The AUDITOR understands and will comply with this subsection.
- B. Federal Participation. It is understood and agreed that, in order to permit federal participation in the expenditure of PL Funds, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of FHWA or as otherwise provided for in this article.
- C. The TPA, in accordance with Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq., and 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notices all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for

an award.

- D. Solicitations for subcontracts, including procurement of materials and equipment. In all solicitations made by competitive bidding or negotiation by the TPA for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the AUDITOR of obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, disability, religion, sex, or national origin.
- E. The AUDITOR shall provide to the TPA its Federal Tax ID Number within thirty (30) days of the effective date of this Agreement.
- F. Materiality and Waiver of Breach. The TPA and the AUDITOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. The TPA's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

Section 47. Foreign Market Restrictions.

- A. The AUDITOR shall not allow funds provided under this award to be used to fund the use of any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- B. By execution of this Agreement, the AUDITOR certifies that the AUDITOR is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it entity has no business operations, as defined in s. 287.136, Florida Statutes, in Cuba or Syria. Further, by execution of this Agreement, the CONSULTANT certifies that the AUDITOR is not participating in a boycott of Israel, as defined in s. 215.37525, Florida Statutes.
- C. With funds granted or allocated pursuant to this Agreement, the AUDITOR shall not bid on, submit a proposal for, or enter into or renew a contract for goods or services of: (1) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or (2) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company: (i) Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, Florida Statutes; or (ii) Is engaged in business operations in Cuba or Syria.
- D. The AUDITOR agrees that this Agreement may be terminated by the TPA without further liability to the TPA if the AUDITOR is found to have submitted a false certification as provided under Section, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria. The AUDITOR further agrees that this Agreement may be terminated by the TPA without further liability to the TPA if the AUDITOR is found to have entered into

contract or renewed on or after July 1, 2018, if the AUDITOR is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

- E. The AUDITOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.
- F. If federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 48. Recycled Products/Recovered Materials

(42 U.S.C. § 6962, 40 C.F.R. part 247, & 2 C.F.R. part § 200.322)

The AUDITOR agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

Section 49. Buy America

(49 U.S.C. 5323(j) & 49 C.F.R. part 661)

For contracts valued at over \$150,000, the AUDITOR agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11. The AUDITOR must submit to TPA the appropriate Buy America certification below with its id or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

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IN WITNESS WHEREOF, the Palm Beach Transportation Planning Agency and the AUDITOR have hereunto set their hands to this Agreement on this 26 day of ^{June} [month], 2025.

AUDITOR:

TPA:

CITRIN COOPERMAN & Company, LLP,
A New York Limited Liability Partnership

Palm Beach MPO, d/b/a
Palm Beach Transportation
Planning Agency

By: Stephen Emery

By: Valerie Neilson

Name/Title: Stephen Emery/Partner
Authorized General Partner

Valerie Neilson, Executive Director

Date: 6/12/2025

Date: 6/26/2025

ATTEST FOR [AUDITOR name]:

Michael Barnett

ATTEST FOR TPA:

Ruth DelPino

Print Name: Michael Barnett/Manager

Ruth DelPino, TPA Executive Assistant

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Milton Collins

Milton Collins, Esq.
TPA General Counsel

Exhibit A

SCOPE OF SERVICES

The Auditor will provide an annual Audit of the TPA's financial reporting and internal financial controls within 9 months after the close of a fiscal year. The audit years shall be:

Fiscal Year 2025 (commencing July 1, 2024, and concluding June 30, 2025)

Fiscal Year 2026 (commencing July 1, 2025, and concluding June 30, 2026)

Fiscal Year 2027 (commencing July 1, 2026, and concluding June 30, 2027)

and must be completed prior to the Federal Audit Clearing house filing date for the Fiscal Year.

Each Audit shall include but not be limited to the following:

1. Preparation and publication of the TPA's Financial Statements to ensure they are presented fairly and accurately, in accordance with Federal Cost Principles.
2. Preparation of Annual Financial Report.
3. Review the TPA's internal controls and provide a report of the adequacy of the system with any recommendations.
4. Review the activities of the TPA for compliance with any special government regulations and/or laws that apply to the specific federal funding.
5. Provide an Auditor's Report certifying the financial reports and statements and prepared for inclusion in the Comprehensive Annual Financial Report.
6. Present the Auditor's report to the TPA Governing Board as deemed necessary by the TPA.

Each audit must be conducted in accordance with the following standards and publications, as amended:

- Generally Accepted Auditing Standards (GAAS)
- Government Auditing Standards issued by the U.S. General Accounting Office (GAO) GAO- 18-568G
- Pronouncements issued by the Government Accounting Standards Board
- Provisions of the Federal Single Audit Act of 1996
- Office of Management and Budget (OMB) Circular A-133
- Office of Management and Budget (OMB) 2 CFR Chapter I, Chapter II, Part 200, et al.
- The Rules of the Auditor General, State of Florida, Chapter 10.550, 10.650
- Sections 218.39 and 215.97, Florida Statutes, and other Florida Statutes, as applicable
- 49 CFR 18.26
- Applicable sections of the Florida Department of Financial Services Reference Guide for State Expenditures.
- Chapter 3 of the Metropolitan Planning Organization (MPO) Program Management Handbook, published by FDOT

The scope of the audit shall be in accordance with Generally Accepted Auditing Standards; Government Auditing Standards; all applicable Florida Statutes; all guidelines and requirements promulgated by the Office of the Auditor General and any other applicable federal, state and local laws, regulations, or professional guidance not specifically described above as well as any additional requirements which may be adopted by these organizations during the period of this contract.

In addition to the above, the selected firm shall be responsible for the schedule of the following tasks:

- Begin preliminary planning and interim fieldwork procedures on or before October 1 each fiscal cycle.
- Progress report of estimated completion percentage by December 31 each fiscal cycle.
- Progress report of estimated completion percentage by February 1 for each fiscal cycle.
- Preparation of a draft of the financial statements, related note disclosures, required and other supplementary information
- Provision of any audit adjusting entries and supporting schedules to the TPA.

In addition to these tasks and the contents of this RFP solicitation, the selected Firm's services shall be subject to the following conditions:

- The Proposer shall not substitute the individuals identified as the engagement partner(s) in its response to this RFP without notifying the Executive Director within 30 days.
- The firm selected shall either submit progress reports or hold periodic meetings not less frequently than described in the above tasks and upon reasonable request of the Executive Director, with appropriate staff to provide assurance that the audit is on schedule.
- At the completion of each audit, an exit conference will be held with appropriate staff to discuss any findings and recommendations.
- Auditors will assist the TPA in implementing and complying with any changes in reporting requirements to remain in conformity with accounting principles generally accepted in the United States of America, Florida Statutes, and Rules of the Auditor General.
- Auditors shall conduct an examination of financial statements to express an opinion on the fairness of presentation of financial position, results of operations, and changes in financial position in conformity with generally accepted accounting principles and requirements of the State of Florida and other applicable laws, rules, and guidelines.
- Auditors shall conduct an examination of any additional activities necessary to establish compliance with the term "financial audit" as defined and used in Government Auditing Standards and any amendments thereto.
- Auditors shall utilize financial condition assessment procedures to assist in the detection of deteriorating financial conditions pursuant to Section 218.39(5), Florida Statutes. The auditor

may use financial condition assessment procedures developed by the Auditor General or an alternative method. The financial condition assessment shall be done as of the fiscal year end. However, the auditor shall consider subsequent events, through the date of the audit report, that could significantly impact the local governmental entity's financial condition. This assessment is expected to be presented at the same time each ACFR is presented.

- The selected firm shall provide all required Independent Accountant / Auditor Reports in accordance with Government Auditing Standards, Florida Statutes and the Rules of the Auditor General.
- The selected firm shall provide a Management Letter as required by Florida Statutes and the Rules of the Auditor General, including all required disclosures.
- The selected firm shall provide a report on internal controls over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.
- If applicable, provide a report on compliance with requirements applicable to each major Federal program and state financial assistance project and on internal control over compliance required by Title 2, U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) and Chapter 10.550, Rules of the Auditor General and the Florida Single Audit Act.
- If applicable, provide a schedule of findings and questioned costs as mandated by Title 2, U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), and the Florida Single Audit Act.
- If applicable, provide any other reports required by the Uniform Guidance and the Florida Single Audit Act.
- Workpapers are the property of the audit firm and shall be retained no less than five (5) years after the completion of this agreement.

Exhibit B

Price Rate Table

DESCRIPTION	HOURS	HOURLY RATES	TOTAL
Partners	30	400	\$12,000
Manager	60	250	\$15,000
Supervisory Staff	105	175	\$18,375
Staff	105	100	\$10,500
TOTAL			\$55,875

* A discount of \$12,875 will be applied to bridge the gap between the calculated fee here and the proposed fee of \$43,000.

AUDIT PERIOD ENDING	TOTAL HOURS PROJECTED	TOTAL
June 30, 2025	300	\$43,000
June 30, 2026	300	\$44,000
June 30, 2027	300	\$45,000
TOTAL		\$132,000

Exhibit C

FEDERAL TRANSIT ADMINISTRATION REQUIRED CONTRACT CLAUSES

A. No Government Obligation to Third Parties. AUDITOR agrees, absent express written consent of the Federal Government, that the Federal Government is not a party to the contract and shall not be subject to any obligations or liabilities to any third party AUDITOR, or any sub-recipient, or any other party pertaining to any matter resulting from this contract or purchase order. AUDITOR agrees to include a similar provision in each subcontract financed in whole or in part with federal assistance provided by the Federal Transit Administration (FTA).

B. Program Fraud and False or Fraudulent Statements. AUDITOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, *et seq.*, and U.S. Department of Transportation (U.S. DOT) regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with this Agreement. Upon execution of this Agreement, AUDITOR certifies and affirms the truthfulness and accuracy of any statement it has made, causes to be made, makes, or may make pertaining to the Agreement or the underlying FTA assisted project for which this Agreement or Work Order is being performed. In addition to other penalties that may apply, AUDITOR acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on it to the extent the Federal Government may deem appropriate. AUDITOR also acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with federal assistance authorized for 49 USC §5307, the Federal Government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n) (1), to the extent the Federal Government deems appropriate. AUDITOR agrees to include the above stated provisions in each subcontract financed in whole or in part with federal assistance provided by the FTA. AUDITOR shall not modify the above stated provisions except to identify the subcontractor who will be subject to the provision.

C. Federal Changes. AUDITOR shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, as they may be promulgated or amended from time to time during the term of this contract. AUDITOR's failure to so comply shall constitute a material breach of this Agreement. AUDITOR agrees to include the above stated provision in each subcontract financed in whole or in part with federal assistance provided by the FTA.

D. Incorporation of FTA Terms. This Agreement shall be deemed to include and does hereby incorporate by reference all standard terms and conditions required by the U.S. DOT and FTA, regardless of whether expressly set forth in this Agreement and include, but are not limited to, all of the duties, obligations, terms and conditions applicable to the Work as described in FTA Circular 4220.1F, and applicable federal law. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with any other provisions contained in this Agreement. AUDITOR shall not perform any act, fail to perform any act, or refuse

to comply with any requirement which would cause the TPA to be in violation of its JPA or any FTA terms and conditions applicable to this Project. AUDITOR agrees to include the above stated provision in each subcontract financed in whole or in part with FTA assisted funding.

E. Civil Rights. The following requirements apply to this Agreement:

1. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC §6102, section 202 of the Americans with Disabilities Act of 1990, as amended, 42 USC §12132, and Federal transit law at 49 USC §5332, as each may be amended from time to time, CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, CONSULTANT agrees to comply with all applicable federal implementing regulations and any other implementing requirements FTA may issue.

The TPA does not discriminate on the basis of race, color, national origin, sex, age, religion, disability and family status. Those with questions or concerns about nondiscrimination, those requiring special assistance under the Americans with Disabilities Act (ADA), or those requiring language assistance (free of charge) should contact Melissa Eble at (561) 725-0813 or Info@PalmBeachTPA.org.

2. Equal Employment Opportunity:

(a) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, and Federal transit laws at 49 USC §5332, AUDITOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60, *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any other applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. AUDITOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

In addition, AUDITOR agrees to comply with any implementing requirements FTA may issue.

(b) Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC §623 and federal transit law at 49 USC §5332, AUDITOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, AUDITOR agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 USC §12112, AUDITOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, AUDITOR agrees to comply with any implementing requirements FTA may issue.

3. AUDITOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only to identify the affected parties.

F. Disadvantaged Business Enterprises (DBE). See Section 38 of the Agreement.

G. Government-wide Debarment and Suspension. If this Agreement has a value of \$25,000 or more, this procurement is a covered transaction for purposes of 49 CFR Part 29. As such, AUDITOR is required to verify that neither it nor its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945 and does so hereby certify. AUDITOR agrees to comply with and does hereby assure and certify the compliance of each third-party AUDITOR and sub-recipient at any tier, with 49 CFR 29, Subpart C, while its proposal, offer or bid is pending and throughout the period that any agreement arising out of such offer, proposal or bid is in effect. AUDITOR further agrees to include a provision requiring such compliance in its subcontracts or any lower tier covered transaction it enters into.

H. Clean Air. The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year. AUDITOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401, et seq. AUDITOR agrees to report each violation to the TPA and agrees that the TPA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office. AUDITOR further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

I. Clean Water. If this Agreement is valued at \$100,000 or more, AUDITOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution

Control Act, as amended, 33 USC 1251 et seq. AUDITOR agrees to report each violation to the TPA and agrees that the TPA will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA regional office. AUDITOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

J. Energy Conservation. AUDITOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

K. Seat Belts. AUDITOR is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate AUDITOR-owned, rented or personally operated vehicles, to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging, and to address each in every sub-agreement it enters into related to this Agreement. Specifically, AUDITOR is encouraged to comply with: (a) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note; (b) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and (c) U.S. DOT provisions pertaining to Distracted Driving as set forth in said orders. Notwithstanding the foregoing, Section 316.614, F.S., requires that the AUDITOR, its subconsultants, and its and their employees, volunteers, agents, use and wear seat belts at all times when a motor vehicle, as defined by Florida law, is operated or in use.

Exhibit D

FEDERAL HIGHWAY ADMINISTRATION REQUIRED PROVISIONS

The resulting Contract will be funded, in whole or in part, with federal funds through the Federal Highway Administration (FHWA). Consequentially, the following FHWA and Federally- mandated provisions, as applicable, will be incorporated into the resulting Contract. Municipality and any subsequent Consultant(s) acknowledge and agree to comply with the applicable provisions in this Section. Italicized language indicates clauses, which require drafting specific to each agreement's needs.

1) Contract Provisions 2 C.F.R. §200. 326

The Purchaser's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

2) Buy America Requirements 23 USC 313; 23 CFR 635.410

The Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FHWA funded projects are produced in the United States, unless a waiver has been granted by FHWA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchase (currently less than \$100,000) made with capital, operating, or planning funds.

3) USDOT Disadvantaged Business Enterprise (DBE) Program Requirements 49 CFR Part 26

a) As a sub-recipient of FHWA or FTA funding, TPA is required to participate in the Florida Department of Transportation (FDOT) Disadvantaged Business Enterprise (DBE) Program. Currently, the approved FDOT program is 100% race neutral. This means that TPA can likely achieve the overall aspirational goal of 10.65% (11.31% for FTA) without the use of contract goals. Nevertheless, TPA is committed to providing contracting opportunities to DBEs and other small businesses. For assistance with identifying DBEs for work on this contract, contact the FDOT Equal Opportunity Office at 850-414-4750 or visit the DBE Supportive Service Providers page at <https://www.fdotdbesupportservices.com/>

b) All bidders must use the FDOT Equal Opportunity Compliance (EOC) system to enter required information, including a Bidders Opportunity List . The selected contractor or consultant must also immediately and regularly enter DBE commitments and payments into EOC. For information on accessing EOC, visit <https://www.fdot.gov/equalopportunity/eoc.shtm> or contact the system administrator at eoohelp@dot.state.fl.us.

c) Bidders, contractors/consultants, sub-recipients, or subcontractor/consultants may not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The bidder contractor/subcontract, sub-recipient, or subcontractor/consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of FHWA and/or FTA-assisted contracts. Failure to carry out these requirements is a material breach of this contract, which

may result in the termination of this contract or such other remedy as the recipient deem appropriate.

4) FHWA Non-Collusion Statement 23 USC 112(c); 23 CFR 635.112(f)

EACH BIDDER SHALL FILE A STATEMENT EXECUTED BY, OR ON BEHALF OF THE PERSON, FIRM, ASSOCIATION, OR CORPORATION SUBMITTING THE BID CERTIFYING THAT SUCH PERSON, FIRM, ASSOCIATION, OR CORPORATION HAS NOT, EITHER DIRECTLY OR INDIRECTLY, ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION, IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THE SUBMITTED BID. FAILURE TO SUBMIT THE EXECUTED STATEMENT AS PART OF THE BIDDING DOCUMENTS WILL MAKE THE BID NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.

5) Sanctions and Penalties for Breach of Contract 2 CFR Part 200, Appendix II(A)

[All contracts in excess of \$150,000 shall contain provisions or conditions which will address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.]

6) Termination for Cause and Convenience 2 C.F.R. Part 200, Appendix II, ¶ B

[All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement].

7) Rights to Inventions Made Under a Contract or Agreement 2 C.F.R. Part 200, Appendix II, ¶ F

a) If the FHWA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FHWA. 2 C.F.R. Part 200, Appendix II, ¶ F.

b) The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8) Energy Efficiency 42 USC 6201; 2 CFR Part 200 Appendix II (H)

Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the State of Florida Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

9) Procurement of Recovered Materials 2 CFR Part 200 Appendix II (K), 2 CFR 200.322; 40 CFR

Part 247

a) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired -

i) Competitively within a timeframe providing for compliance with the contract performance schedule;

ii) Meeting contract performance requirements; or

iii) At a reasonable price.

b) Information about this requirement, along with the list of EPA- designate items, is available through the EPA.

APPENDIX "A"
(AS REFERENCED IN SECTION 21 – NONDISCRIMINATION POLICY STATEMENT)

NONDISCRIMINATION REQUIREMENTS

During the performance of this Agreement, Auditor, for itself, its assignees and successors in interest (hereinafter referred to as the "Auditor") agrees as follows:

(1) Compliance with Regulations: The Auditor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

(2) Nondiscrimination: The Auditor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Auditor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Exhibit D of the Regulations.

(3) Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations made by the Auditor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Auditor of the Auditor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

(4) Information and Reports: The Auditor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Auditor is in the exclusive possession of another who fails or refuses to furnish this information the Auditor shall so certify to the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Auditor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Auditor under the contract until the Auditor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Auditor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Auditor shall take such action with

respect to any subcontract or procurement as the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Auditor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Auditor may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and, in addition, the Auditor may request the United States to enter into such litigation to protect the interests of the United States.

(7) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.)."