

**AN AGREEMENT FOR THE UTILIZATION
OF PASS-THROUGH FTA AND COMMONWEALTH TRANSIT FUNDS IN THE
HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION
AREA FOR FISCAL YEAR 2024**

This Agreement, made and entered into as of this 8th day of August, 2023 by and between the **Hampton Roads Transportation Planning Organization**, hereinafter referred to as the HRTPO, and the **Williamsburg Area Transit Authority**, hereinafter referred to as WATA, for the utilization of pass-through FTA and Commonwealth Transit funds.

Whereas, the HRTPO is actively engaged in the development of a transportation planning process in accordance with the "Master Agreement for the Use of Commonwealth Transportation Funds" for the Hampton Roads Transportation Planning Organization dated March 11, 2020, as amended, the terms of which are incorporated herein by this reference and are to be used to interpret this contract consistent with said Agreement; and

Whereas, the HRTPO has entered into a Project Agreement for the Use of FTA and Commonwealth Transit Funds with the Commonwealth of Virginia, Department of Rail and Public Transportation, to implement the activities specified in the HRTPO's Fiscal Year 2024 Unified Planning Work Program; and

Whereas, the HRTPO desires to engage the WATA to perform Task Number 10.3 of this Work Program;

Now, therefore, the HRTPO and WATA do hereby mutually agree as follows:

Article I – Scope of Service

The WATA shall perform, in a professional manner, the services as outlined in the attached Scope of Work, Appendix A. The Scope shall include a copy of the work activity from the FY 2024 Unified Planning Work Program.

Article II – Time of Performance

The WATA shall begin work effective July 1, 2023, and have the project finished and a report submitted to the HRTPO by June 30, 2024, for approval by the HRTPO and the Virginia Department of Rail and Public Transportation.

Article III – Basis of Payment

For services performed in accordance with the provisions of this Agreement, the HRTPO agrees to pay the WATA 90% of actual costs up to the maximum amount of \$200,000 in FY-2024 Section 5303 funds. Actual costs shall include direct salaries and payroll burden as defined below and non-salary direct costs as detailed and attached to this Agreement.

1. Direct Salaries - Direct salaries are defined as the cost of salaries of employees for the time directly chargeable to the project. WATA shall provide a list of all personnel anticipated to charge time against the activities covered by this Agreement. This list shall be attached to this Agreement as Attachment B, and shall identify personnel by payroll classification only (planner, technician,

etc.) and their present actual payroll rate per hour.

Premium overtime payments, when authorized by the HRTPO and the Virginia Department of Rail and Public Transportation, shall be included in direct labor costs. Payroll burden cost shall be added to the straight time salaries for overtime payment but shall not be added to premium overtime payments.

2. Payroll Burden - Payroll burden is defined as sick leave, vacation and holiday pay of engineers, draftsmen and other technical personnel, plus payroll and unemployment taxes, contributions for Social Security, unemployment compensation insurance, retirement plan, and life and medical insurance benefits. Costs of company contributions to a life insurance, medical insurance and retirement plan for employees shall be normal and reasonable. Payroll burden is expressed as a percentage of direct salaries.
3. Payroll Burden Percentage - The percentage to be applied for payroll burden for the purpose of computing partial payments shall be based on the WATA accounting records and shall be adjusted annually to reflect current records. The maximum allowable percentage shall be as audited.

Quarterly payments shall be made for the services performed based on the WATA detailed statement of expenditures. All vouchers submitted for quarterly payments shall be received by the HRTPO within ten days of the end of the quarter and supported by progress reports consisting of a schedule showing the percentage of completion, and a narrative outlining accomplishments during the quarter. The final voucher shall be submitted within 60 days subsequent to the completion of the work. Final payment shall be made no earlier than 60 days nor later than 120 days after the acceptance of the completed requirements of the Agreement. Final payment shall be based on audited costs and additive rates.

The WATA agrees that, as determined by audit, any costs found to be unsupported by acceptable records or in violation of any provision of this Agreement shall not be reimbursable; and any previous payments of such costs shall be promptly reimbursed to the HRTPO.

The HRTPO must receive payment for work performed from the Virginia Department of Rail and Public Transportation before pass-through funds can be reimbursed to the WATA.

Article IV – Third Party Contracts

Unless authorized in writing by the HRTPO, the WATA shall not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under the Agreement without the prior written agreement of the HRTPO. Further, no Request for Proposal (“RFP”) which uses Section 5303 funds may be issued prior to review and approval of the RFP by the HRTPO and DRPT.

Article V - Restrictions, Prohibitions, Controls, and Labor Provisions

The WATA shall comply with all of the restrictions, prohibitions, controls, and labor provisions set forth in Appendix C, hereto attached and made part of the Agreement.

Article VI – Compliance with Title VI of the Civil Rights Act of 1964

The WATA shall comply with the provisions of Title VI of the Civil Rights Act of 1964, and the provisions of Appendix D, hereto attached and made a part of this agreement.

Article VII – Other Provisions

The WATA shall be subject to all provisions placed on the HRTPO by the Virginia Department of Rail and Public Transportation in their Agreement for the use of FTA Section 5303 funds and Commonwealth Transit funds for FY 2024, the terms of which are incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereunto have set their hands and affixed their seals, the day and year first written above.

ATTEST:

HAMPTON ROADS TRANSPORTATION PLANNING
ORGANIZATION

BY: 

Kelli E. Arledge
Deputy Executive Director,
Administration and Operation

BY: 

Robert A. Crum, Jr.
Executive Director

ATTEST:

WILLIAMSBURG AREA
TRANSIT AUTHORITY

BY: 

Ben Goad III, Director
of Planning & Administration
(TITLE)

BY: 

Matthew Scalia
Executive Director
(TITLE)

Appendix A – Scope of Work

Appendix B – Personnel

Appendix C – Restrictions, Prohibitions, Controls, and Labor Provisions

Appendix D – Title VI

APPENDIX A: Task 10.3 – WATA Performance Monitoring and Evaluation

A. Background

The Williamsburg Area Transit Authority is organized under Chapter 33 of Title 33.2 of the Code of Virginia. The Authority was created as a political subdivision of the Commonwealth of Virginia with its main purpose being to prepare and implement a regional transit plan for all or a portion of the areas located within the jurisdictional boundaries of each member locality.

The Authority currently provides public transportation services to James City County, the City of Williamsburg, the Bruton District of York County, the College of William & Mary, and the Colonial Williamsburg Foundation. Service extends to Newport News (Lee Hall) to provide connections with Hampton Roads Transit (HRT) and a route to Surry County via the Jamestown-Scotland Ferry.

The Authority's mission is "To provide safe, efficient, and accessible public transit to residents and visitors in the Williamsburg area." As public transportation faces disruption in the industry, WATA is committed to the planning necessary to provide a transit system that meets the needs of citizens and visitors.

B. Work Elements (WE)

The scope of work that supports Authority activities is as follows:

1. **Service Planning** – WATA engages in continuous evaluation of its services and makes changes as needed. The most recent service changes of note were implemented in November 2022 which created Route 12 and Route 12A. This Work Element includes fixed-route service and ADA complementary paratransit service. WATA is experiencing growth in its ADA service of over twenty percent (20%) per year. The Authority has begun work on its new Transit Strategic Plan (TSP), with completion scheduled for FY2024. This Work Element also includes the planning and evaluation of WATA's physical stop locations (sign replacement, shelter repairs, and stop upgrades/enhancements).
2. **Performance Monitoring** - WATA monitors service performance to ensure that resources are being used to provide effective and efficient service. On-time performance, accidents/incidents, revenue hours, and revenue miles are some of the common measures. These measures are used to inform service planning and potential improvements. Data is compiled and reported to DRPT on a monthly basis and to National Transit Database (NTD) on an annual basis. The Public Transportation Agency Safety Plan (PTASP) is a recent requirement that requires the annual updating of performance data.
3. **Financial Planning and Programming** – WATA applies for and administers awards from FTA and DRPT to support both operational and capital expenses. This funding requires preparation and updating of the Transportation Improvement Program (TIP) and coordination with local partners to provide matching funds. Awards from FTA and DRPT are managed to ensure consistency with approved programs and compliance with award requirements and eligibility criteria.

4. **Procurement Planning and Programming** - WATA must coordinate its procurement plans to ensure that funding of the goods and services necessary for operation is done in compliance with all applicable laws and regulations. It is also critical that capital expenditures are programmed in a timely manner according to funding availability and operational needs. As a recipient of federal funding, WATA also sets goals and plans for participation in projects by Disadvantaged Business Enterprises (DBEs).
5. **Public Participation** – WATA performs a variety of public outreach as a recipient of state and federal funding. This outreach includes engaging with the public to ensure that WATA service is not operating in a discriminatory manner as prohibited

C. End Products

1. WE 1 – Annual Service Plan, Annual Fleet Plan; Transit Development Plan Update; Service Schedules/Alerts; Transit Asset Management (TAMS) Updates
2. WE 2 – Public Transportation Agency Safety Plan Update; NTD Reports; DRPT (OLGA) Reports
3. WE 3 – TIP Updates; Annual Operating and Capital Budgets; Monthly and Quarterly Reports; Five-Year Capital Improvement Program
4. WE 4 – Annual Capital Budget, Five-Year Capital Improvement Program; Monthly and Annual Procurement Plan; Semiannual DBE Reports; Solicitations (i.e., Requests For Proposals, Invitations For Bids)
5. WE 5 – Public Notices, Public Hearings; Advisory Committee Meetings; Title VI Plan Triennial Update; DBE Program and Triennial Participation Goal Updates

D. Schedule

1. WE 1 – Quarterly, Semiannual, and Annual Reports
2. WE 2 – Monthly, Quarterly, Semiannual, and Annual Reports
3. WE 3 – Monthly, Quarterly, Semiannual, and Annual Plans and Reports; TIP Updates as needed
4. WE 4 – Monthly, Semiannual, and Annual Plans and Reports; Solicitations as needed
5. WE 5 – Monthly and Quarterly Meetings; Notices and public hearing as needed; Monthly Board of Directors' Meetings; Ongoing online outreach through social media and Authority website

E. Participants

WATA Board of Directors, WATA Advisory Committee, James City County Purchasing, General Public, HRTPO, DRPT, HRT, Suffolk Transit, FTA, and other local, state, and federal agency staff.

F. Budget, Staff, Funding

(Funding information includes applicable state/local matching funds)

ENTITY	5303		TOTAL
WATA	\$200,000		\$200,000

APPENDIX B: FY 2024 PERSONNEL

Position	Rate/Hour (w/o fringe benefits)
Executive Director	\$77
Director of Operations	\$37
Director of Planning	\$35
Transit Planner	\$30
Budget Management Specialist	\$31
Communications Specialist	\$29

APPENDIX C: Restrictions, Prohibitions, Controls, and Labor Provisions

- a. The WATA, its agents, employees, assigns, or successors, and any persons, firms, or agency of whatever nature with whom it may contract or make agreement in connection with the Agreement, shall not discriminate against any employee or applicant for employment because of age, race, handicap, color, sex, or national origin. The WATA shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their age, race, religion, handicap, color, sex, or national origin. Such actions 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.
- b. Disadvantaged Business Enterprise ('DBE'). It is the policy of the U.S. DOT that DBE's as defined in 49 C.F.R. pt.26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with the Federal funds under this Agreement. Consequently, the DBE requirements of 49 C.F.R. pt. 26 apply to this Agreement.

The WATA or its contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. pt. 26. The WATA shall take all necessary and reasonable steps under 49 CFR pt.26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts. The WATA will utilize the Virginia Department of Transportation's DBE program, as required by 49 C.F.R. pt.26 and as approved by U.S. DOT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the WATA of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C.# 1001 and/or the Program Fraud Civil Remedies act of 1986 (31 U.S.C. #3801 *et seq.*)

Pursuant to the requirements of 49 C.F.R. pt. 26 the following clause must be inserted in each third party contract:

"The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The contractor shall carry out applicable requirements of 49 C.F.R. pt.26 in the award and administration of U.S. DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of the contract or such remedy as the WATA deems appropriate."

- c. Interest of Member of, or Delegates to, Congress. No member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.
- d. Conflict of Interest. The WATA and its officers and employees shall comply with provisions of the State and Local Governments Conflicts Act, #2.2-3100 of the *Code of Virginia* (1950) *et seq.*, as amended.
- e. The WATA, its agents, employees, assigns, or successors, and any persons, firm, or agency of whatever nature with whom it may contract or make an agreement, shall comply with the

provisions of the Virginia Fair Employment Contracting Act, #2.2-4200 *et seq.* of the *Code of Virginia* (1950), as amended.

APPENDIX D: Title VI

During the performance of this agreement, the WATA, for itself, its assignees, and successors in interest, agrees as follows:

- a. **Compliance with Regulations:** The WATA shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (U.S. DOT) 40 C.F.R. pt. 21, as amended ("Regulations").
- b. **Nondiscrimination:** The WATA, with regard to the work performed by it during the term of the Agreement, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The WATA shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations.
- c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the WATA 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 WATA of the WATA's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- d. **Information-Reports:** The WATA shall provide all information and reports developed as a result of or 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 HRTPO to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the WATA is in the exclusive possession of another who fails or refuses to furnish this information, the WATA shall so certify to the HRTPO and shall set forth the efforts it has made to obtain this information.
- e. **Sanctions for Noncompliance:** In the event of the WATA's noncompliance with the nondiscrimination provisions of this Agreement, the HRTPO shall impose such Agreement sanctions as it may determine to be appropriate, including, but not limited to:
 1. Withholding of payments to the WATA under the Agreement until the WATA complies; and/or
 2. Cancellation, termination, or suspension of the Agreement in whole or in part.
- f. **Incorporation of Provisions:** The WATA shall include the provisions or paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The WATA shall take such action with respect to any subcontract or procurement as the HRTPO may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the WATA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the WATA must immediately notify the HRTPO so that steps can be taken to protect the interests of the HRTPO, the Department and the United States.