

# ESTA SPECIAL BOARD AGENDA

## Special Meeting

Monday, April 15, 2024 at 9:00am  
Town of Mammoth Lakes Council Chambers  
437 Old Mammoth Rd., Ste. Z, Mammoth Lakes, CA  
THE CITIZEN HOTEL, 926 J Street, Sacramento, CA 95814

The Agenda is available at [www.estransit.com](http://www.estransit.com)

**Chairperson: Bob Gardner**

**Vice-Chairperson: Trina Orrill**

### Board Members:

Chris Bubser (Mammoth Lakes)  
Karen Schwartz (Bishop)  
Karen Kong (Bishop)  
Trina Orrill (Inyo County)

Jeff Griffiths (Inyo County)  
Lynda Salcido (Mono County)  
Bill Sauser (Mammoth Lakes)  
Bob Gardner (Mono County)

Note: In compliance with the Americans with Disabilities Act, if an individual requires special assistance to participate in this meeting, please contact Eastern Sierra Transit at (760) 872-1901 ext. 15 or 800-922-1930. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 13.102-35.104 ADA Title II)

Voice recorded public comment: To submit public comment via recorded message, please call 760-872-1901 ext. 12 by 4pm Sunday, April 14. State your name and the item number(s) on which you wish to speak. The recordings will be limited to two minutes. These comments may be shared at the appropriate time during the board meeting.

Email public comment: To submit an emailed public comment to the Board please email [pmoores@estransit.com](mailto:pmoores@estransit.com) by 4pm Sunday, April 14, and provide your name, the number(s) on which you wish to speak, and your comment. These comments will be shared with all attending Board members.

Join the ZOOM meeting on your computer or mobile device by using this link:

Meeting ID: 87925986379

Passcode: 458375

Remember, to eliminate feedback, use only one source of audio for the meeting, not both the phone and the computer.

**Begin Recording Meeting & Call to Order**

## **Roll Call**

## **Pledge of Allegiance**

**Public Comment\*:** The Board reserves this portion of the agenda for members of the public to address the Eastern Sierra Transit Authority Board on any items not on the agenda and within the jurisdiction of the Board. The Board will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

\*Check meeting attendees. Read emails and/or phone calls submitted.

## **A. Consent Agenda (Board Action Required)**

The following items are considered routine and non-controversial by staff and will be approved by one motion if no member of the ESTA or public wishes an item removed. If discussion is desired by anyone, the item will be removed from the consent agenda and will be considered separately. Questions of clarification may be made by ESTA Board members, without the removal of the item from the Consent Agenda.

- A-1 Approval of Regular Meeting Minutes of February 8, 2024
  - Meeting minutes from the last meeting of the ESTA Board of Directors
- A-2 Federal Certifications and Assurances
  - Complete form assuring the Department of Transportation that ESTA is following requirements to receive federal funding
- A-3 Low Carbon Transit Operations Program (LCTOP) Allocations
  - Approve LCTOP projects
- A-4 Paid Time Off Policy
  - Review and approve changes to the PTO program

## **B. Information Agenda (Receive and File Only)**

- NONE

## **C. Closed Session**

- C-1 The Board will meet with staff in closed session without the public present. CONFERENCE WITH LEGAL COUNSEL: It is the intention of the Board to meet in closed session concerning the following item: Executive Director Performance Evaluation (Govt. Code Section 54957). CLOSED SESSION DISCUSSION/POSSIBLE ACTION Conference with Labor Negotiators. (Pursuant to Government Code Section 54957.6)
- C-2 Report on Closed session as required by law.

## **D. Action Agenda**

- D-1 Zero Emissions Transition Plan Resolution 2024-03
  - The plan to move the fleet to zero emission vehicles is completed
- D-2 Executive Director Contract Review
  - The ESTA Board will review changes to the employment contract for the the Executive Director
- D-3 Six-Month Service Review
  - Review and approve the summer bus service

#### **E. Board Member Comments**

- Board member comment on ESTA and home jurisdictions.

#### **F. Adjournment**

The next meeting of ESTA's board June 13, 2024 at 9:00 am, in Mammoth Lakes, CA. Check ESTA website for details on attending the meeting.

**Eastern Sierra Transit Authority**  
**Minutes of February 08, 2024 Meeting**

**Call to Order - 9:09 A.M. Thursday, February 08, 2024**

Chairperson Schwartz called The meeting of Eastern Sierra Transit Authority to order at 9:09 am in the City of Bishop Council Chambers

**ROLL CALL**

A quorum was established by roll call.

**PRESENT:**

Chairperson Schwartz, Boardmembers Gardner, Kong, Salcido, Bubser and Orrill

**ABSENT:**

Boardmembers Sauser & Griffiths

**Pledge of Allegiance**

Boardmember Salcido led the Pledge of Allegiance.

**Public Comment:** NONE

**Consent Agenda**

It was moved by Boardmember Gardner and seconded by Boardmember Kong to approve the consent Agenda.

A-1 Approval of Regular Meeting Minutes of January 11, 2024

The motion passed 6-0 with Boardmembers Sauser & Griffiths absent

**Information Agenda**

B-1 Executive Directors Report

B-2 Financial report for 2023/24

B-3 FY22-23 Financial Audit and Report

Jeffrey Peek /CLA Auditor gave a presentation via zoom and answered Board questions.

Discussion among the board and Phil Moores.

B-4 Zero Emissions Transition Plan

Katrina Sutton, CALSTART was available via Zoom for any questions.

**Action Agenda**

C-1 Board Election

Motion by Boardmember Bubser to elect Boardmember Gardner For Chairperson

2nd by Boardmember Salcido

Motion carried 6-0 with Boardmembers Sauser & Griffiths absent

Motion by Boardmember Gardner to elcect Boardmember Orrill for Vice Chairperson

2nd by Boardmember Bubser

Motion carried 6-0 with Boardmembers Sauser & Griffiths absent

**Eastern Sierra Transit Authority**  
**Minutes of February 08, 2023 Meeting**

C-2 Bus Purchase

Director Moores gave a recap of the report on the Mammoth fleet replacement.

Discussion between the Board & Director Moores.

Ben Doward commented on Caltrans District 9 purchasing of 6-8 Lt Duty ev trucks

Boardmember Gardner motioned to approve the expenditure of capital reserves to replace and renew the Mammoth Lakes heavy-duty transit bus fleet up to \$3,000,000.00

2nd by Boardmember Salcido

Motion passes 5-0 with Boardmember Bubser abstaining and Boardmembers Sauser & Griffiths absent

Chairperson Schwartz closed the regular session at 10:02 to open in closed session

to discuss the following item:

Executive Director Performance evaluation (Govt. Code Section 54957). CLOSED SESSION DISCUSSION POSSIBLE ACTION Conference with Labor Negotiators. (Pursuant to Government Code Section 54957.6)

Closed session ended at 10:27 am and Chairperson Schwartz said there is nothing to report.

Board Member Comments: NONE

**Adjournment**

The meeting was adjourned at 10:37 am to the next regular meeting scheduled to be held April 11, 2024 at 9:00 am at Town of Mammoth Lakes Council Chambers , 437 Old Mammoth Rd., Ste. Z Mammoth Lakes, CA

Recorded & prepared by:

\_\_\_\_\_  
Linda Robinson  
Board Clerk  
Eastern Sierra Transit Authority

Minutes approved:

## **STAFF REPORT**

Subject: Federal Fiscal Year 2024 Certifications  
and Assurances

Initiated by: Dawn Vidal, Administration Manager

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### **BACKGROUND**

The Eastern Sierra Transit Authority, which is considered a sub-recipient by the California Department of Transportation (Caltrans) for federal funding, submits required certifications and assurances to Caltrans on an annual basis in conjunction with receipt of Federal funding for its transportation programs.

### **ANALYSIS/DISCUSSION:**

In order to receive Federal Transit Administration (FTA) assistance, recipients and sub-recipients must provide certain certifications and assurances required by Federal law or regulation. Submittal of these certifications and assurances is required on an annual basis.

Instead of selecting individual groups of certifications and assurances, the Subrecipient may make a single selection that will encompass all groups of certifications and assurances applicable to all FTA programs. The Preface states that applicants are responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its project, itself, any subrecipient, or any other third-party participant in its project. The type of project and subrecipient will determine which certifications and assurances apply. The Certifications and Assurances clearly state that any provision of an Assurance that does not apply will not be enforced. For this reason, and in accordance with the practice in previous years after consultation with legal counsel, staff has determined to select the option agreeing to comply with all applicable provisions.

The FY 2024 Federal Certifications and Assurances has been reviewed by Christian Milovich, Assistant County Counsel Inyo County. Affirmation of the Certifications and Assurances by ESTA's legal counsel is required as part of the submittal.

**FINANCIAL CONSIDERATIONS**

Approval and submittal of the FY2024 Certifications and Assurances is required in order to receive federal operating and capital assistance. ESTA's FY2023/24 budget includes approximately \$2.4 million in federal funding. Around \$1.2 million of this is federal capital grants which is given on a reimbursement schedule.

**RECOMMENDATION**

The Board is requested to authorize the Executive Director to sign the Federal Fiscal Year 2024 Certifications and Assurances binding ESTA's compliance with these certifications and assurances for Federal Transit Administration assistance programs.

*Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision.*

*Text in italic is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

## **CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.**

*All applicants must make the certifications in this category.*

### **1.1. Standard Assurances.**

*The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).



- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;
  - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;
  - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
  - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;
  - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
  - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
  - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
  - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - (2) Notification of violating facilities pursuant to EO 11738;
  - (3) Protection of wetlands pursuant to EO 11990;
  - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
  - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
  - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
  - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
  - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

- animals held for research, teaching, or other activities supported by this award of assistance.
- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
  - (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
  - (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
  - (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:
    - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
    - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
    - (3) Using forced labor in the performance of the award or subawards under the award.

## **1.2. Standard Assurances: Additional Assurances for Construction Projects.**

*This certification appears on the Office of Management and Budget’s standard form 424D “Assurances—Construction Programs” and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

**1.3. Procurement.**

*The Uniform Administrative Requirements, 2 CFR § 200.325, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.*

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.327 “Procurement Standards;
- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

**1.4. Suspension and Debarment.**

*Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.*

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.**

The applicant certifies:

- (a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**1.6. American Rescue Plan Act Funding.**

The applicant certifies:

- (a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS**

*This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA’s state safety oversight programs, and each State that is required to draft and certify a Public Transportation Agency Safety Plan on behalf of a Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) pursuant to 49 CFR § 673.11(d).*

*This certification is required by 49 U.S.C. § 5307(c)(1)(L), 49 U.S.C. § 5329(d)(1), and 49 CFR § 673.13. This certification is a condition of receipt of Urbanized Area Formula Grants Program (49 U.S.C. § 5307) funding.*

*This certification does not apply to any applicant that only receives financial assistance from FTA under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C.*

*§ 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs, unless it operates a rail fixed guideway public transportation system.*

If the applicant is an operator, the applicant certifies that it has established a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673; including, specifically, that the board of directors (or equivalent entity) of the applicant has approved, or, in the case of an applicant that will apply for assistance under 49 U.S.C. § 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under 49 U.S.C. § 5329(d)(5), followed by the board of directors (or equivalent entity) of the applicant has approved, the Public Transportation Agency Safety Plan or any updates thereto; and, for each recipient serving an urbanized area with a population of fewer than 200,000, that the Public Transportation Agency Safety Plan has been developed in cooperation with frontline employee representatives.

If the applicant is a State that drafts and certifies a Public Transportation Agency Safety Plan on behalf of a public transportation operator, the applicant certifies that:

- (a) It has drafted and certified a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 for each Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) in the State, unless the Small Public Transportation Provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own Public Transportation Agency Safety Plan; and
- (b) Each Small Public Transportation Provider within the State that opts to use a State-drafted Public Transportation Agency Safety Plan has a plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5), Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5), and, if the Small Public Transportation Provider serves an urbanized area with a population of 200,000 or more, the safety committee of the Small Public Transportation Provider established under 49 U.S.C. § 5329(d)(5).

### **CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.**

*If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2023, Pub. L. 117-328, div. E, tit. VII, §§ 744–745. U.S. DOT Order 4200.6 defines a “corporation” as “any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association”, and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT*

*Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.*

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

#### **CATEGORY 4. LOBBYING.**

*If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.*

*This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.*

#### **4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and

contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was 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.

#### **4.2. Statement for Loan Guarantees and Loan Insurance.**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **CATEGORY 5. PRIVATE SECTOR PROTECTIONS.**

*If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.*

#### **5.1. Charter Service Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.*

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.



## 5.2. School Bus Agreement.

*To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.*

- (a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
  - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
  - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:
  - (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
  - (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
  - (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
  - (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

## CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.

*If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).*

The applicant certifies that it is in compliance with 49 CFR Part 625.

**CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.****7.1. Rolling Stock Buy America Reviews.**

*If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.*

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

**7.2. Bus Testing.**

*If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.*

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

**CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.**

*If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;

- (c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
  - (1) Senior;
  - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
  - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);
- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
  - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
  - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

**CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.**

*If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).*

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
  - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
  - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and
- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
  - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
  - (2) It has determined that otherwise eligible local transit needs are being addressed.

**CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.**

*If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

**CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.**

*If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.*

*If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).*

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

**CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.*

*In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).*

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

**CATEGORY 13. STATE OF GOOD REPAIR GRANTS.**

*If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.*

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

#### **CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.**

*If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks (“SIB”) Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).*

*Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.*

#### **CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If the applicant will apply for an award under FTA’s Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.*

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA’s regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

#### **CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.**

*If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.*

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 CFR Part 672, “Public Transportation Safety Certification Training Program”; and
- (b) Compliant with the requirements of 49 CFR Part 674, “State Safety Oversight”.

**CATEGORY 17. DEMAND RESPONSIVE SERVICE.**

*If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.*

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

**CATEGORY 18. INTEREST AND FINANCING COSTS.**

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.



**CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.**

*If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit <https://www.nist.gov/cyberframework> and <https://www.cisa.gov/>.*

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

**CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT PROGRAMS).**

*Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.*

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

- (a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- (b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- (c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
- (d) With respect to its procurement system:
  - (1) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost

- Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, for Awards made on or after December 26, 2014,
- (2) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - (3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
- (e) It will comply with the Certifications, Assurances, and Agreements in:
- (1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),
  - (2) Category 06 (Transit Asset Management Plan),
  - (3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),
  - (4) Category 09 (Formula Grants for Rural Areas),
  - (5) Category 15 (Alcohol and Controlled Substances Testing), and
  - (6) Category 17 (Demand Responsive Service).

#### **CATEGORY 21. EMERGENCY RELIEF PROGRAM.**

*An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.*

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

**FEDERAL FISCAL YEAR 2024 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS**

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: \_\_\_\_\_

The Applicant certifies to the applicable provisions of all categories: (*check here*) \_\_\_\_\_.

*Or,*

The Applicant certifies to the applicable provisions of the categories it has selected:

<b>Category</b>	<b>Certification</b>
01 Certifications and Assurances Required of Every Applicant	_____
02 Public Transportation Agency Safety Plans	_____
03 Tax Liability and Felony Convictions	_____
04 Lobbying	_____
05 Private Sector Protections	_____
06 Transit Asset Management Plan	_____
07 Rolling Stock Buy America Reviews and Bus Testing	_____
08 Urbanized Area Formula Grants Program	_____
09 Formula Grants for Rural Areas	_____
10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____

- 12 Enhanced Mobility of Seniors and Individuals with Disabilities Programs
- 13 State of Good Repair Grants
- 14 Infrastructure Finance Programs
- 15 Alcohol and Controlled Substances Testing
- 16 Rail Safety Training and Oversight
- 17 Demand Responsive Service
- 18 Interest and Financing Costs
- 19 Cybersecurity Certification for Rail Rolling Stock and Operations
- 20 Tribal Transit Programs
- 21 Emergency Relief Program

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**CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**

**AFFIRMATION OF APPLICANT**

Name of the Applicant: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant’s behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_ Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT’S ATTORNEY**

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_ Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant’s Attorney pertaining to the Applicant’s legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney’s signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*

## STAFF REPORT

Subject: Low Carbon Transit Operations Program FY 2023-24 Funds  
Initiated by: Dawn Vidal, Administration Manager

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### **BACKGROUND:**

The Low Carbon Transit Operations Program (LCTOP) is one of several programs that are part of the Transit, Affordable Housing, and Sustainable Communities Program established by the California Legislature in 2014 by Senate Bill 862. The LCTOP was created to provide operating and capital assistance for transit agencies to reduce greenhouse gas emission and improve mobility, with a priority on serving disadvantaged communities. Approved projects in LCTOP will support new or expanded bus or rail services, expand intermodal transit facilities, and may include equipment acquisition, fueling, maintenance and other costs to operate those services or facilities, with each project reducing greenhouse gas emissions. For agencies whose service area includes disadvantaged communities, at least 50 percent of the total moneys received shall be expended on projects that will benefit disadvantaged communities. Disadvantaged community in this program is focused on air quality, not income. Inyo County does not have any disadvantaged communities as defined in the LCTOP program.

This program is administered by Caltrans in coordination with Air Resource Board (ARB) and the State Controller's Office (SCO). The California Department of Transportation (Caltrans) is responsible to ensure that the statutory requirements of the program are met in terms of project eligibility, greenhouse gas reduction, disadvantaged community benefit, and other requirements of the law.

### **ANALYSIS/DISCUSSION:**

Eastern Sierra Transit is requesting FY 2023-24 LCTOP funds from both the Inyo and Mono County LTCs to fund two projects: The purchase of an additional electric paratransit vehicle and supporting infrastructure to be used in Bishop Dial-a-Ride service This is year 3 of 4 for that the Inyo County LCTOP funds that have been reserved for this vehicle. For Mono County this will be the first year that the LCTOP funds will be reserved to purchase an electric Trolley to be used in the Town of Mammoth.

Both vehicles will be fully ADA accessible and carry up to 9 passengers. Each project will utilize four years of LCTOP roll over funding, vouchers and incentives funds. The Inyo County vehicle is anticipated to be purchased in 2026. The Mono County electric trolley is anticipated to be purchased in 2028.

**FINANCIAL CONSIDERATIONS:**

The (LCTOP) provides formula funding for approved operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility. The allocation of funding from the State Controller's office for the Eastern Sierra Region totals \$127,211. The Section 99314 funds allocated to Eastern Sierra Transit are based primarily on ridership and fares received during the previous fiscal year.

Mono County (99313)	\$ 34,847
Eastern Sierra Transit Authority (99314)	\$ 51,137
Inyo County (99313)	\$ 50,051
Total	\$136,035

**PROJECT COSTS:**

The proposed costs for the projects are below.

Mono County Electric Trolley	\$ 85,984
Inyo County Dial-a-Ride Electric Vehicle	\$ 50,051
Total	\$136,035

**RECOMMENDATION**

It is recommended that the Board approve Resolution 2024-02 allocating \$136,035 of FY 2023-24 Low Carbon Transit Operations Program (LCTOP) funds for the purchase of two electric vehicles and infrastructure, and to authorize the Eastern Sierra Transit Authority's Executive Director or Administration Manager to complete and execute all documents for the Low Carbon Transit Operations Program submittal, allocation requests, and required reporting.

RESOLUTION #2024-02

AUTHORIZATION FOR THE EXECUTION OF THE  
CERTIFICATIONS AND ASSURANCES AND AUTHORIZED AGENT FORMS  
FOR THE LOW CARBON TRANSIT OPERATIONS PROGRAM (LCTOP)

FOR THE FOLLOWING PROJECT(S):

Inyo County Electric Vehicle \$50,051

Mono County Electric Vehicle \$85,984

**WHEREAS**, the Eastern Sierra Transit Authority is an eligible project sponsor and may receive state funding from the Low Carbon Transit Operations Program (LCTOP) for transit projects; and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

**WHEREAS**, Senate Bill 862 (2014) named the Department of Transportation (Department) as the administrative agency for the LCTOP; and

**WHEREAS**, the Department has developed guidelines for the purpose of administering and distributing LCTOP funds to eligible project sponsors (local agencies); and

**WHEREAS**, the Eastern Sierra Transit Authority wishes to delegate authorization to execute these documents and any amendments thereto to Phil Moores, Executive Director

**WHEREAS**, the Eastern Sierra Transit Authority wishes to implement the following LCTOP project(s) listed above,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Eastern Sierra Transit Authority that the fund recipient agrees to comply with all conditions and requirements set forth in the Certification and Assurances and the Authorized Agent documents and applicable statutes, regulations and guidelines for all LCTOP funded transit projects.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that Phil Moores, Executive Director be authorized to execute all required documents of the LCTOP program and any Amendments thereto with the California Department of Transportation.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Eastern Sierra Transit Authority that it hereby authorizes the submittal of the following project nomination(s) and allocation request(s) to the Department in FY2023-2024 LCTOP funds:



List project(s)

Project Name: Inyo County Electric Vehicle

Amount of LCTOP funds requested: \$50,051

Short description of project: Purchase of one electric paratransit vehicle and infrastructure

Benefit to a Priority Populations: Project creates or improves infrastructure or equipment that reduces criterial air pollutant or toxic air contaminant emissions in low-income communities.

Contributing Sponsors (if applicable): Inyo County Local Transportation Commission

List project(s)

Project Name: Mono County Electric Vehicle

Amount of LCTOP funds requested: \$85,984

Short description of project: Purchase of one electric paratransit vehicle and infrastructure

Benefit to a Priority Populations: Project creates or improves infrastructure or equipment that reduces criterial air pollutant or toxic air contaminant emissions in low-income communities.

Contributing Sponsors (if applicable): Mono County Local Transportation Commission

APPROVED AND ADOPTED this 11th day of April, 2024, by the following vote of the Eastern Sierra Transit Authority Board of Directors:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Bob Gardner, Chairperson  
Eastern Sierra Transit Authority  
Board of Directors

Attest: Linda Robinson  
Secretary of the Board

By: \_\_\_\_\_

## **STAFF REPORT**

Subject: Paid Time-Off Cap  
Presented by: Phil Moores, Executive Director

### **Background**

ESTA does not currently have a maximum Paid Time-Off (PTO) allowable balance. Partner agencies in the region offer PTO allowable balances from 300 to 800 hours before stopping accruals. Our current PTO liability is \$241,786. This caught the attention of Amy Shepherd, Inyo County Auditor, and she recommended a cap.

### **Discussion**

Meet and Confer Memorandum of Understanding (MOU) requirements with employee associations have been completed. I am recommending a 480-hour cap which translates to 12 weeks of paid time off. Specifically, all employees will stop accruing PTO once they reach the 480-hour limit. A letter from Employee Association Representative, Steve Irwin, is attached. While my discussion with the Employee Association did not satisfy all their requests, it did result in:

1. An additional two weeks (from 400 to 480) on the cap
2. Special cashout opportunity
3. Approval to split large mandatory cashouts across two calendar tax years.

### **Financial**

Employees with balances in excess of 480 hours will be cashed out at current wage levels. This action will reduce liability by around \$30,000 and further stabilize ESTA's finances. There are two employees currently above the 480-hour proposed limit, one significantly above at nearly 1,500 hours. These employees will be given until June 30, 2024, to either use the time or take advantage of a special cashout opportunity. The special cashout will allow all employees to cash out PTO down to a minimum of 240 hours.

### **Recommendation**

The Board is requested to approve a new policy limiting PTO accrual at 480 hours for all staff.

April 11, 2024  
Item A-4

A-4  
→

I would like to register my opposition to Agenda Item A-3, the proposed Paid Time Off Cap, on this month's ESTA board meeting agenda. I am a nearly 12 year full time employee of ESTA and over that time I have accrued a considerable amount of PTO. I am one of the 4 employees referred to in the report on this issue as being above the 400 hour proposed limit.

If this limit is implemented it would impact me in several ways. I have been planning my retirement strategy for some time and my PTO account is part of the plan. If I am required to liquidate a substantial part of it, there will be a significant tax consequence immediately, whereas if I can control the liquidation, taxes will be less impactful.

About 5 or 6 years ago I had a serious illness that prevented me from working for about 3 months. During that time I was able to draw on the PTO that I had accrued up to that point to sustain me through the illness. I eventually used it all up and had no income for a while until I was able to return to work, which created a hardship. I took from that experience that I should be more prepared for events that might prevent me from working and I should have something more to fall back on. My current PTO accumulation is part of that plan.

I have been planning for my future according to the rules laid out in the ESTA MOU and now you want to change the rules. I urge the ESTA board to reject this Agenda Item A-4. I suggest that ESTA management have some discussions with ESTA Employee Association (EEA) members and come to some agreement about this issue and then it can be re-agendized.

Thank you for listening,

Stephen Irwin

A-4-2

## STAFF REPORT

Subject: Zero Emission Plan  
Presented by: Phil Moores, Executive Director

### Background

The **Zero Emissions Transition Plan** final draft is attached. The report is intended to serve as guidance to comply with California’s Innovative Clean Transportation (ICT) rule. An executive summary is attached. The recommendations in the study are non-binding, and as technology continues to advance, it is expected that more zero emission vehicles will come to market and suit ESTA’s needs.

The report meets minimum compliance standards as mandated under ICT. Overall, the plan recommends ESTA deploys a mixed fleet of 16 battery electric vehicles and 24 hydrogen fuel cell electric vehicles. Sourcing funding will be key to ESTA’s full transition of their fleet. Funding is needed for vehicles, associated infrastructure, to include upfitting existing facilities, and ensuring a stable supply of hydrogen can be procured for the ten fuel-cell vehicles recommended.

Below is the expected cost per depot; this includes vehicle procurement, charging infrastructure, electricity, hydrogen procurement, and vehicle maintenance. This does not include any potential utility infrastructure upgrades. The total cost is also shown with a Net Present Value (NPV) of 4%; this is another metric used to estimate the cost of a project over multiple years.

Depot	Total	NPV (4%)
Bishop	\$10,786,008.08	\$8,343,357.68
Mammoth	\$24,812,208.03	\$20,522,412.46
Lone Pine	\$2,761,532.61	\$2,260,374.08
Walker	\$1,692,242.54	\$1,427,874.21
<b>Total</b>	<b>\$40,051,991.26</b>	<b>\$32,554,018.42</b>

### Recommendation

The board is requested to approve the Zero Emission Transition Plan by resolution 2024-03.

**AUTHORIZING RESOLUTION**  
**RESOLUTION NO. 2024-03**

**A RESOLUTION OF THE EASTERN SIERRA TRANSIT AUTHORITY BOARD  
OF DIRECTORS, STATE OF CALIFORNIA, ACCEPTING THE ZERO  
EMISSION TRANSITION PLAN**

**WHEREAS**, the Eastern Sierra Transit Authority is required to complete a zero emission transition plan by the California Air Resources Board; and

**WHEREAS**, the Plan is now complete; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the Board of Directors does hereby approve and accept the Zero Emission Transition Plan completed by contractor Calstart.

**PASSED AND ADOPTED** by the Board of Directors of the Eastern Sierra Transit Authority, which provides transit service in Inyo and Mono Counties, State of California, at a regular Board Meeting held on April 11, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Name: Bob Gardner

Title: **Chairperson**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By

\_\_\_\_\_  
Linda Robinson, Board Clerk

## **STAFF REPORT**

Subject: Executive Director's Contract  
Presented by: Phil Moores, Executive Director

### **Background**

The current Executive Director's employment contract was initiated and approved by the Board in October of 2018. The contract called for annual reviews and consideration of compensation adjustments. Pursuant to your Board's direction, attached for your consideration is a contract amendment that provides a 2.4% salary increase effective March 25, 2024.

### **Required Board Action**

If the Board intends to change the salary and/or benefits provided to Mr. Moores, Government Code Section 54953(c)(3) requires the following:

"Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive... during the open meeting in which the final action is to be taken..."

In other words, if the Board decides to adjust Mr. Moores' salary and/or benefits, they are required to summarize the package deal during this open session. There is no exact way that the report is required to be made, so you may simply read out Mr. Moores' title, salary, any other direct monetary benefits, and a brief list of non-monetary benefits like health insurance, vacation, etc. That information is set forth in the proposed revisions to "Attachment B" to Mr. Moores' employment agreement with ESTA.

### **Recommendation**

Approve the amended employment contract for the Executive Director, which includes a 2.4% salary increase effective March 25, 2024 and increase in paid time of accrual as stipulated in Attachment B of his contract.

## **ATTACHMENT B**

### **AGREEMENT BETWEEN THE EASTERN SIERRA TRANSIT AUTHORITY AND PHIL MOORES FOR THE PROVISION OF PROFESSIONAL SERVICES AS THE ESTA EXECUTIVE DIRECTOR**

TERM FROM: March 25, 2024      TO: Termination

#### SCHEDULE OF FEES:

- Salary: \$145,100 annually.
- Retirement: Classic Calpers 2% at 55 formula, and 100% paid by ESTA.
- Health Insurance: PERS Choice (employee contribution = 17%), PERS Select (employee contribution = 13%), or monthly stipend of \$408, if no health plan is selected.
- Vision/Dental/Hearing Reimbursement: \$1,500/yr. plus \$750/yr. for qualifying dependents.
- Comprehensive Leave: Employee will accrue 20.67 hours monthly.
- Paid Holidays: 12 per year
- Floating Holidays: 2 per year
- Life Insurance: \$50,000, paid by ESTA

#### Executive Director Contract Section I-II:

- I.     ESTA will make the same adjustment to the Executive Directors salary, benefits, allowances, and other forms of compensation as for other employees except as provided in the paragraph below.
  
- II.    The ESTA Board will review the performance of the Executive Director at least annually and may at that time adjust compensation as determined to be fair and reasonable. Should any adjustment be made at this time, the date of such adjustment will become the anniversary date for any subsequent compensation changes subject to paragraph I. above.



**AMENDMENT NUMBER 4 TO  
AGREEMENT BETWEEN THE EASTERN SIERRA TRANSIT AUTHORITY  
AND  
PHIL MOORES  
FOR THE PROVISION OF PROFESSIONAL  
SERVICES AS THE ESTA EXECUTIVE DIRECTOR**

WHEREAS, the Eastern Sierra Transit Authority (hereinafter referred to as "ESTA") and Phil Moores (hereinafter referred to as "Contractor"), have entered into an Agreement to provide personal services contractor services dated October 19, 2018.

WHEREAS, ESTA and Contractor do desire and consent to amend such Agreement as set forth below.

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

ESTA and Contractor hereby amend such Agreement via a revised ATTACHMENT B, which is attached hereto and incorporated herein.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS 11<sup>th</sup> DAY OF APRIL, 2024.

**ESTA**

**CONTRACTOR**

By: \_\_\_\_\_  
signature

By: \_\_\_\_\_  
signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
print name

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

The effective date of this Amendment to the Agreement is March 25, 2023. All the other terms and conditions of the Agreement are unchanged and remain the same.

**AGREEMENT BETWEEN THE EASTERN SIERRA TRANSIT AUTHORITY  
AND  
FOR THE PROVISION OF PERSONAL SERVICES  
AS THE EXECUTIVE DIRECTOR**

**INTRODUCTION**

WHEREAS, Phil Moores (hereinafter referred to as "Executive Director") has been duly appointed as EXECUTIVE DIRECTOR for the Eastern Sierra Transit Authority; and

WHEREAS, The Eastern Sierra Transit Authority (hereinafter referred to as "ESTA") and Executive Director desire to set forth the manner and means by which Executive Director will be compensated for performance of duties;

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, ESTA and Executive Director hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF WORK.**

The Executive Director shall furnish to ESTA, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein.

Services and work provided by the Executive Director under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and county laws, ordinances, and resolutions.

**2. TERM.**

The term of this Agreement shall be from November 5, 2018 until terminated as provided below.

**3. CONSIDERATION.**

A. Compensation. ESTA shall pay Executive Director in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A which are performed by Executive Director.

B. Travel and Per Diem. ESTA shall reimburse Executive Director for the travel expenses and per diem which Executive Director incurs in providing services and work under this Agreement. Travel and per diem expenses will be reimbursed in accordance with ESTA's Expense and Use of Public Resources Policy, however, the Executive Director will not be reimbursed for intra-region travel by private automobile to destinations less than seventy-five (75) miles from Bishop, California.

C. No Additional Consideration. Except as expressly provided in this Agreement, Executive Director shall not be entitled to, nor receive, from ESTA, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

D. Manner of Payment. Executive Director will be paid in the same manner and on the same schedule of frequency as other ESTA employees.

E. Federal and State Taxes. From all payments made to Executive Director by ESTA under the terms and provisions of this Agreement, ESTA shall withhold all appropriate federal and state income taxes (resident and non-resident).

#### 4. **WORK SCHEDULE.**

Executive Director's obligation is to perform the services and work identified in Attachment A which are needed within ESTA. It is understood by Executive Director that the performance of these services and work will require a varied schedule. Executive Director, in arranging his schedule, will coordinate and make arrangements to fulfill the requirements of the services and work which is necessary.

#### 5. **REQUIRED LICENSES, CERTIFICATES, AND PERMITS.**

Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Executive Director to provide the services and work described in Attachment A must be procured by Executive Director and be valid at the time Executive Director enters into this Agreement. Further, during the term of this Agreement, Executive Director must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, and professional licenses or certificates. ESTA will pay the cost of the licenses, certificates, and permits necessary for Executive Director to obtain and maintain a commercial driver's license and associated certificates in accordance with ESTA's Commercial Driver's License Reimbursements Policy. All other licenses, certificates, and permits will be procured and maintained in force by Executive Director at no expense to ESTA unless pre-authorized by the Board of Directors. Executive Director will provide ESTA, at ESTA's request, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Executive Director and ESTA as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, ESTA reserves the right to make such determinations for purposes of this Agreement.

#### 6. **OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.**

ESTA shall provide Executive Director with such supplies, reference materials, telephone service, and staff as is deemed necessary by ESTA for Executive Director to provide the services identified in Attachment A to this Agreement.

#### 7. **ESTA PROPERTY.**

A. Supplies, Equipment, etc. All supplies, equipment, tools, protective or safety devices, badges, identification cards, keys, uniforms, vehicles, reference materials, furniture, appliances, etc. provided to Executive Director by ESTA pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of ESTA. Executive Director will use reasonable care to protect, safeguard and maintain such items while they are in Executive Director's possession.

B. Products of Executive Director's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result or product of, Executive Director's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of ESTA. At the termination of the Agreement, Executive Director will convey possession and title to all such properties to ESTA.

**8. WORKERS' COMPENSATION.**

ESTA shall provide workers' compensation coverage to Executive Director for all acts performed in the course and scope of providing the services described in Attachment A to this Agreement. In the event a claim is made by Executive Director for injuries received in the course and scope of providing such services, ESTA's liability shall be limited to workers' compensation benefits payable under the California Labor Code.

**9. STATUS OF EXECUTIVE DIRECTOR.**

All acts of Executive Director relating to the performance of this Agreement shall be performed by Executive Director as an employee of ESTA. Executive Director has no authority to bind, incur any obligation on behalf of, or exercise any right or power vested in, ESTA, except as expressly provided by law, defined in the ESTA Joint Powers Agreement, or set forth in Attachment A.

**10. DEFENSE AND INDEMNIFICATION.**

In the event the Executive Director is sued for acts performed within the course and scope of providing services and work described in Attachment A of this Agreement, ESTA shall defend, indemnify, and hold the Executive Director harmless from any and all liability arising from such acts as required by law.

**11. TERMINATION AND DISCIPLINE.**

Executive Director's services under this Agreement may be terminated by ESTA without cause, and at will, for any or no reason by giving to Executive Director ninety (90) days written notice of such intent to terminate.

Executive Director may terminate this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to terminate to ESTA.

**12. ASSIGNMENT.**

This is an agreement for the personal services of Executive Director. ESTA has relied upon the skills, knowledge, experience, and training of Executive Director as an inducement to enter into this Agreement. Executive Director shall not assign or subcontract this Agreement, or any part of it, without the express written consent of ESTA.

**13. NONDISCRIMINATION.**

Executive Director agrees to comply with various provisions of the federal, state, and county statutes, laws, and ordinances applicable to ESTA, and providing that no person in the United States shall, on the grounds of race, color, religion, ancestry, sex, age, physical handicap, or national origin, be subjected to discrimination.

**14. CONFIDENTIALITY.**

Executive Director agrees to comply with various provisions of the federal, state, and county laws and ordinances providing that information and records kept, maintained, or accessible by ESTA, shall be privileged, restricted, or confidential. Disclosure of such confidential, privileged, or protected information shall be made by Executive Director only as allowed by law.

**15. CONFLICTS.**

Executive Director agrees that he has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement. Executive Director agrees to complete and file appropriate conflict of interest statements.

**16. POST AGREEMENT COVENANT.**

Executive Director agrees not to use any confidential, protected, or privileged information which is gained from ESTA in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Executive Director agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with ESTA, or who has been an adverse party in litigation with ESTA, and concerning such, Executive Director by virtue of this Agreement has gained access to ESTA's confidential, privileged, protected, or proprietary information.

**17. AMENDMENT.**

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form, and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

**18. NOTICE.**

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which Executive Director or ESTA shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first-class mail to the respective parties as follows:

**ESTA**  
Chairperson – Board of Directors  
P.O. Box 1357  
Bishop, CA 93515

**Executive Director:**  
Phil Moores  
191 Alpine Drive  
Aspendell, CA 93514

**19. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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**AGREEMENT BETWEEN EASTERN SIERRA TRANSIT AUTHORITY  
AND PHIL MOORES  
FOR THE PROVISION OF PERSONAL SERVICES  
AS THE ESTA EXECUTIVE DIRECTOR**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS  
19 DAY OF October, 2018.

**ESTA**

By: Kirk A. Stapp  
Print or Type Name

Kirk A. Stapp  
Signature

Dated: 10/19/18

**EXECUTIVE DIRECTOR**

By: Phil Moores  
Print or Type Name

Phil Moores  
Signature

Dated: 10/8/18

## STAFF REPORT

Subject: Six-Month Service Recommendations

Presented by: Phil Moores, Executive Director

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### **BACKGROUND:**

ESTA's Service Change Policy includes a plan for bi-annual service planning sessions to allow the Board an opportunity to review and approve the services proposed to be operated for the coming six months.

### **ANALYSIS/DISCUSSION:**

The following pages detail the specific routes that are planned to be operated by Eastern Sierra Transit for what is considered the summer season, from April through October of 2024.

Transit services are defined as follows and categorized in Table 1:

**Fixed Route** – This type of bus service follows a defined route and stops only at designated stops.

**Demand Response** – This service runs on scheduled trips assigned to vehicles after a call in from a passenger.

**Core (Cor)** – A core service carries the majority of passengers and serves higher population areas with a fixed route approach.

**Commuter (Com)** – A commuter route operates during peak travel periods and is designed to deliver passengers to and from work on a fixed route.

**Dial-a-Ride (DAR)** – This demand response service is a door-to-door service that fits nicely in small communities that do not have sufficient population density to support a fixed route.

**ADA Paratransit (Par)** – Also a demand response service, this is a federally mandated service designed to serve the disabled community. The Americans with Disabilities Act of 1990 requires a transit agency to provide a service that compliments the regularly schedule fixed routes that a disabled person cannot use.

**Market Development (MD)** – This is an experimental service that tests a previously unserved area for potential. The prescribed method for introducing new service is a three-year schedule. Year one is considered a marketing

outreach, and year two is a telling year where ridership either increases, stays flat, or declines. In cases where ridership increases in the second year, a third year is recommended. In cases where ridership declines or remains flat in the second year, a third year is not recommended without significant changes to attempt improvement.

**Lifeline (LL)** – This service is designed to connect remote low-density populations to important services in higher density cities. Typically, it runs infrequently, but provides citizens access to medical, government, and other services not available otherwise.

**Charter (Chr)** – Charters are bus trips not part of regular services. They are requested and paid for to provide exclusive service outside the regular routes of a transit system. They are irregularly scheduled and sometimes exclude the general public. ESTA is required to evaluate, track, and report on all charter services through a federal website.

**Table 1**

Planned ESTA Services May 2024 through October 2024													
Route	Type	Days of Week								Hours	Service Period	Description	
		S	M	T	W	T	F	S	S				
Walker DAR	DAR		X	X				X	X		8am-4:30pm	year-round	1 bus, Carson Wed., Mammoth Tue.
Bridgeport - Carson	LL				X						11am-6:30pm	year-round	1 roundtrip on Wednesday
Walker to Mammoth	LL			X							8am-5pm	Tuesdays	Operated by Walker DAR driver. Res. Only
Mammoth DAR	Par		X	X	X	X	X				8am-5pm	year-round	Provides ADA paratransit backup
Purple Line	Cor	X	X	X	X	X	X	X			7am-6pm	year-round	1 bus with 30-minute headways
Teal Line	Cor	X	X	X	X	X	X	X			7am-6pm	year-round	1 bus with 30-minute headways
Mammoth Winter Trolley	Cor	X	X	X	X	X	X	X			5:40p-2am	Through April 21	2 buses with 30-minutes service till 2am
Mammoth Shoulder Season Trolley	Cor	X	X	X	X	X	X	X			7am-10pm	mid-April to mid-June Labor Day till Nov.	2 buses with 30-minutes service till 2am
Mammoth Summer Trolley	Cor	X	X	X	X	X	X	X			7am-2am	May 26-Nov 16	3 buses with 30-minutes service until 10pm. Reduced till 2am
Mammoth Lakes Basin Trolley	Cor	X	X	X	X	X	X	X			8am-6pm	June 16-Labor Day after Labor Day till Oct. 1	2 buses with 30-minutes service, 3 on Sat. 1 bus with 60-minute service and 2 on Sat.
Red Line	Cor	X	X	X	X	X	X	X			7am-5:30pm	Thru April	3 buses with 20-minute service As many as 6 buses on busy days
Blue Line	Cor	X	X	X	X	X	X	X			7am-5:20pm	Thru April	1 bus with 15-minute service
Green Line	Cor	X	X	X	X	X	X	X			7:30am-5:30pm	Thru April	1 bus with 15-minute service
Yellow Line	Cor	X	X	X	X	X	X	X			7:30am-5:30pm	Thru April	1 bus with 20-minute service
Mammoth Express	Com	X	X	X	X	X	X	X			see schedule	year-round	8 trips weekday, 2 weekend
395 Reno	Cor	X	X	X	X	X	X	X			see schedule	year-round	1 roundtrip daily
395 Lancaster	Cor	X	X	X	X	X	X	X			see schedule	year-round	1 roundtrip daily
Benton - Bishop	LL			X				X			8:30am leave 2:30pm return	year-round	1 roundtrip daily, 2 days per week
Bishop DAR	DAR	X	X	X	X	X	X	X			7am-6:30pm (M-F) 8:30am-6pm (Sat) 8am-1pm (Sun)	year-round	Door-to-door service in Bishop
Nite Rider	DAR							X	X		6pm-2am	year-round	Friday and Saturday nights (and New Years Eve & Tri-county Fair Sunday)
Lone Pine - Bishop	Com	X	X	X	X	X	X	X			see schedule	year-round	6 trips weekdays, 2 weekends
Lone Pine DAR	DAR	X	X	X	X	X	X	X			7:30am-3:30pm	year-round	1 bus - door-to-door service
Reds Meadow Shuttle	Cor	X						X	X		7am-7pm	July 4-Labor Day	6-11 buses with 20-minute service

Legend: Cor=Core, Chr=Charter, DAR=Dial-a-Ride, Par=Paratransit Required, MD=Market Development, LL=Lifeline, Com=Commuter

The proposed services and changes for the coming six months include the following:

- Added Reno Sundays
- Added Lancaster Saturdays
- Added Mammoth Express and Lone Pine Express on weekends



- Added Zone 3 to Bishop DAR which includes Wilkerson, Rovana, Round Valley, Mustang Mesa and Starlight.
- Reds Meadow service is expected to begin July 4<sup>th</sup> weekend on Friday-Sunday only.
- Lakes Basin Trolley – The trolley will circulate within the Lakes Basin serving the Lake Mary Loop and Horseshoe Lake.
- All other services approved for operation in FY23-24 are proposed to continue in FY24-25.

**Schedule – new services are expected to begin July 1<sup>st</sup>.**

**FINANCIAL CONSIDERATIONS**

The transit service detailed on the preceding pages are included in the ESTA FY 2024-25 budget and are consistent with the revenues included in the budget. The revenues and expenses for the routes that are approved to operate beyond June 30, 2024, will be included in the FY 24-25 budget.

**RECOMMENDATION**

This is an information item only. The Board will be asked to consider public comment and the proposed services at the June Board meeting on June 13, 2024.