

Letter of Agreement and Contract

In this contract between the Clearwater Police Department (“Vendor”) and the University of South Florida Board of Trustees, a public body corporate for the University of South Florida’s Center for Urban Transportation Research (“University”). The contract period will begin upon execution and will end on May 15, 2017. The Vendor shall perform the services as outlined in the scope of services (Exhibits A & B).

Total contract amount will not exceed \$40,000.00

The parties to this contract shall be bound by all applicable state and federal requirements as outlined in Florida Department of Transportation (FDOT) Project # 433144-1, Contract #G0E08 (attached). All services must be completed by May 15, 2017. The final invoice must be received by May 31, 2017 or payment will be forfeited.

It is expressly understood that the Vendor is an independent contractor, and not an agent of FDOT or the University. The Vendor shall defend, hold harmless and indemnify the University, FDOT, the National Highway Traffic Safety Administration (“NHTSA”), Federal Highway Administration (“FHWA”), and the U.S. Department of Transportation (“USDOT”), from all claims for damages and liability due to the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment. As agencies or subdivisions of the State of Florida, FDOT, the University, and the Vendor’s liability shall not exceed the limits of their waiver of sovereign immunity provided under Section 768.28, Florida Statutes. No party shall be responsible for attorney fees of another party except as provided by statute.

In accordance with the contract, the Vendor is authorized to perform the tasks detailed in the scope of services (Exhibits A & B) and is fully responsible for satisfactory completion of all services. Services performed prior to receiving an executed contract from the University will not be eligible for reimbursement. This contract does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

UNIVERSITY CANNOT PROVIDE LEGAL ADVICE TO VENDOR REGARDING ITS LEGAL DUTIES. HOWEVER, VENDOR MAY CONTACT UNIVERSITY’S CUSTODIAN OF PUBLIC RECORDS AT USFPURCHASING@USF.EDU OR 813-974-2481 IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO THE VENDOR’S DUTY TO PROVIDE AND MAINTAIN PUBLIC RECORDS RELATING TO THIS AGREEMENT.

CANCELLATION: This contract may be unilaterally cancelled by FDOT or the University for refusal by the Vendor to allow public access to all documents, papers, letters, or other material made or received by the Vendor in conjunction with this contract, unless the records are exempt from section 24(1) of Article 1 of the state constitution and section 119.07(1), Florida Statutes.

University of South Florida Board of Trustees

Date

Project Director, University of South Florida

Date

Vendor's Authorized Agent Signature

Date

George N. Cretekos, Mayor
City of Clearwater

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



Joel Londrigan
ATTORNEY IN FIDF

FDOT Approval Date: _____

Countersigned:

CITY OF CLEARWATER, FLORIDA

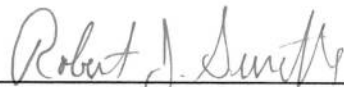
George N. Cretekos
Mayor

By:

William B. Horne II
City Manager

Approved as to form:

Attest:



Robert J. Surette
Assistant City Attorney

Rosemarie Call
City Clerk

EXHIBIT "A"

SCOPE OF SERVICES PEDESTRIAN AND BICYCLE SAFETY ENFORCEMENT CAMPAIGN Clearwater Police Department (Vendor)

I. **OBJECTIVE:**

The Florida Department of Transportation ("FDOT"), through a grant with the University of South Florida ("University"), will utilize law enforcement support to educate and enforce safe pedestrian, bicyclist, and driver behaviors in priority counties in Florida. The main objective of this effort is to reduce traffic crashes resulting in pedestrian and bicyclist fatalities and serious injuries through the use of selected traffic education and enforcement operations.

II. **PURPOSE:**

In 2014, 2,494 people lost their lives in traffic crashes on Florida's roadways. More than 24% of them were pedestrians (606) and more than 5% were bicyclists (135).

The **Purpose** of this funding opportunity is to develop and implement effective community level high visibility enforcement operations in areas with the highest representation of traffic crashes involving pedestrians and bicyclists resulting in fatalities and serious injuries.

The project **Goal** is to increase awareness of and compliance with traffic laws pertaining to pedestrian and bicyclist safety in an effort to reduce pedestrian and bicycle crashes, fatalities, and serious injuries on our roadways.

Pedestrians and bicyclists are more vulnerable than all other road users. Traffic crashes involving pedestrians and bicyclists are more likely to result in fatal or serious injuries than any other types of traffic crashes.

This campaign is a component of Florida's Bicycle/Pedestrian Focused Initiative and is implemented by the University of South Florida under the direction of the Florida Department of Transportation. This campaign supports the goals established in Florida's Pedestrian and Bicycle Strategic Safety Plan. High Visibility Enforcement activities are being implemented to educate pedestrians, bicyclists, and motorists on traffic laws pertaining to pedestrian and bicycle safety and to increase compliance with those laws.

III. **SERVICES TO BE PROVIDED BY THE VENDOR:**

- A. **High Visibility Enforcement of all road users**, including pedestrians, bicyclists, and motorists, in an effort to change behaviors and improve the safety of pedestrians and bicyclists. Conduct on-street education and enforcement operations including the distribution of educational materials, and the issuance of warnings and/or citations to pedestrians, bicyclists, and motorists in accordance with Florida Statutes. The Vendor must follow an education-warning-citation progression, with an emphasis on education throughout the contract period. Education **MUST** be done for at least a third of the contract period.
- B. **Enforcement initiatives must begin within 30 days of the contract execution date.** Exceptions for delayed start may be approved if a State of Emergency is declared by the Governor that directly impacts the Vendors ability to perform. All exceptions require the approval of the University and FDOT.
- C. **The Vendor shall distribute the provided safety educational materials** during ALL High Visibility Enforcement operations. Vendors that elect to participate in bicycle light distribution will be required to complete a separate Bicycle Light Distribution Assurance form. Lights may be available, but due to limited quantities, this is not guaranteed.

- D. **The Vendor is required to engage the media during the contract period. The Vendor shall distribute a minimum of two (2) press releases during the contract period. The initial required media engagement will announce that enforcement operations will begin and must be conducted a minimum of seven (7) days in advance of the operation start date. The second release must be distributed between the warning and citation phases.** Additional media engagement is encouraged throughout the contract period. Proof of media engagement must be provided within 30 days of the press release or news report as a backup documentation component for invoicing during the period in which it is conducted.

IV. UNIVERSITY RESPONSIBILITIES:

- V. The University will provide to Vendor copies of the required training materials, a copy of Florida's Pedestrian and Bicycle Strategic Safety Plan, educational materials for distribution, and approved safety messages. The University reserves the right to review and audit the Vendor's compliance with the terms of this Letter of Agreement and Contract at any time. In the event University determines that Vendor is not averaging the required number of operations, hours, and officers in each operation over the period time between the date delivery of services commence and the audit date, as agreed to herein, the University may reduce the funding for the remaining term of the Agreement by the percentage difference between the required number of operations and officers and the Actual Average. (Information regarding the "Actual Average" can be found on the last page of this contract.)

VI. VENDOR RESPONSIBILITIES:

ON-STREET OPERATIONS

Funding is restricted to on-street overtime operations **conducted by sworn enforcement officers** specific to pedestrian and bicycle safety in the identified priority areas, conducted at the level of effort shown in this contract. The agency will be reimbursed based on performance of specific tasks listed within the contract. **Invoices must document that each officers initial 40-hour minimum level of effort has been met prior to participating in overtime enforcement details.** No hours may be charged for efforts other than those specified in the contract. Example: General speed enforcement would not qualify for reimbursement, however, enforcing speed **in a priority area where data reflects that speed is contributing to traffic crashes involving pedestrians and bicyclists** would qualify for reimbursement. Agencies will not be reimbursed for enforcement operations that take place outside of the identified priority areas.

The funding that is provided to the Vendor is not to be used to supplant the Vendor's ongoing enforcement and educational efforts. Duplicated efforts will not be eligible for reimbursement. **Hours that are not in excess of an officers normal 40-hour work week are not eligible for reimbursement.**

NON-DISCRIMINATION AND ETHICAL STANDARDS

No person shall, on the ground of race, color, religion, sex, handicap, or national origin, be subjected to discrimination under any program or activity supported by this contract. The agency agrees to comply with the Florida Civil Rights Act (F.S. 760)

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0760/0760.html

All officers participating in High Visibility Enforcement activities are required to comply with the Law Enforcement Officer Ethical Standards of Conduct as established by the Florida Department of Law Enforcement. <https://www.fdle.state.fl.us/Content/CJST/Menu/Officer-Requirements-Main-Page/LE-Ethical-Standards-of-Conduct.aspx>

TRAINING & PERSONNEL RATES

All officers assigned to operations completed under this contract must first review and complete the following required training materials created by FDOT and the National Highway Traffic Safety Administration (NHTSA), all of which are available online:

“Pedestrian Safety Roll Call for Law Enforcement” <http://www.alerttodayflorida.com/RollCall/>

“Cycling Safety Roll Call for Law Enforcement” <http://www.alerttodayflorida.com/RollCall/>

“Pedestrian Safety Training for Law Enforcement” <http://www.iadlest.org/Projects/NLEARN.aspx>

“Enhancing Bicycle Safety: Law Enforcement’s Role” <http://www.iadlest.org/Projects/NLEARN.aspx>

Prior to commencing the services outlined under this contract, Vendor must submit a signed and dated list of personnel authorized to perform overtime operations under this agreement, including a certification of completion of the required training, and a fully-loaded hourly overtime rate range (no more than +/- \$5.00) to be used for each officer. The contract hourly billing rate range shall include the costs of hourly overtime plus associated fringe benefits. Only hours from officers listed and within the rate range shown on the authorized personnel list are eligible for reimbursement under this agreement. The authorized personnel list may be updated to add officers and update billing rates, but no hours may be charged for any individual officer until after the updated personnel list has been signed and dated showing their contract billing rate and verifying training has been completed. (Note – All rates must match the payroll documentation submitted with each monthly invoice.) Time for training may not be charged to this contract.

CORE ACTIVITY PERFORMANCE MEASURES

Each Law Enforcement Agency will perform a minimum of ninety percent of contracted efforts outlined within their High Visibility Enforcement contract within the contract period to be eligible for agency of the year award consideration. Each successive fiscal year, agencies will be prioritized for funding based on percentage of performance expectations that were met. Performance will be tracked through monthly activity reports and measured against the established enforcement plan.

CONSEQUENCES FOR NON PERFORMANCE

If the Vendor is not meeting the agreed upon level of effort as outlined in Exhibit C, the full amount of funding for subsequent periods will be reduced.

DELIVERABLES

INVOICES

Invoices must be submitted at least monthly (every 30 days), beginning within 60 days of the contract execution date. Failure to submit invoices as outlined in this contract may result in termination of the agreement. If payroll is bi-weekly, invoices may be submitted after every two pay periods. Invoices must contain the following:

- **Invoice:** summary of hours charged and total due. Agency must use the invoice template provided by the University.
- **Personnel Timesheets:** total hours for each individual officer must be reported. Total hours include hours worked on this contract, and any other hours the officer works during the month. The timesheets should clearly indicate that the hours charged to this HVE contract are above and beyond the officer's normal 40-hour workweek. Agencies must submit hours using the Personnel Services Timesheet template provided by the University.
- **Activity Reporting form:** one page for each operation/location completed showing officers assigned, date, times, location, safety issue addressed and corresponding enforcement approaches used, contacts overview, number of materials distributed, and the numbers of warnings and citations issued to motorist, pedestrians, and bicyclists under each Statute. Agencies must utilize the Activity Reporting Form template provided by the University.
- **Payroll documentation:** Vendor must submit payroll documentation to accompany each invoice. This payroll documentation should clearly indicate overtime rates that match the invoice, when each officer performed overtime activities (must match the personnel timesheet), that the hours being claimed are for hours worked in excess of the normal 40 hour workweek, and must include either a pay stub or payroll ledger documenting payment to each officer for which you are requesting reimbursement. Any personal information, such as social security numbers, should be redacted.
- **Personnel Letter:** Prior to commencing the services outlined under this contract, Vendor must submit a signed and dated list of personnel authorized to perform overtime operations under this agreement, including a certification of completion of the required training, and a fully-loaded hourly overtime rate range (no more than +/- \$5.00) to be used for each officer. Time for training may not be charged to this contract.
- **Proof of Media Engagement:** Proof of media engagement must be provided within 30 days of the press release or news report as a backup documentation component for invoicing during the period in which it is conducted. See Section III for additional details.

All invoices must include the dates of service (to/from) and the following certification statement: "All costs are true and valid costs incurred in accordance with the agreement, deliverables were received and accepted." The certification statement must be signed by an authorized agent of the "Vendor". Invoices must be submitted through the provided online platform. In case access to the provided online platform cannot be obtained, invoice documentation can be sent electronically to Kristin@cutr.usf.edu.

EXHIBIT "B"
EFFORT SUMMARY - PEDESTRIAN AND BICYCLE SAFETY ENFORCEMENT CAMPAIGN
Clearwater Police Department (Vendor)
SERVICE PROVIDED: Enhanced Traffic Enforcement Detail/High Visibility Enforcement

Details to be completed	2-3 every 2 weeks/40 total
Hours per detail	5 hrs
Officers per detail	3 officers
List of intersections/corridors	<ol style="list-style-type: none"> 1. 400 Block of Mandalay Avenue 2. South Missouri Avenue & Druid Road 3. Fort Harrison Avenue & Court Street 4. Nursery Road & Belcher Road 5. U.S. Highway 19 & Seville Boulevard 6. U.S. Highway 19 & Drew Street 7. 1500 Block of Gulf to Bay Boulevard to the 3200 Block of Gulf to Bay Boulevard 8. State Road 580 & Countryside Boulevard 9. 400-700 Block of South Gulfview Boulevard 10. Beach Roundabout & associated crosswalks 11. Missouri Avenue & Court Street
Actual Average*	18.75

Total Project budget not to exceed: \$40,000.00

NOTE: Total budget calculated from 32 weeks total duration at the level of effort indicated above. Reasonable effort must be made to maintain the weekly level of effort for the full contract period. If the level of effort outlined above is not obtained during a given month due to unexpected circumstances (i.e. weather, staffing issues, illness, etc.), these should be documented in each invoice. All properly documented overtime enforcement hours completed within the contract term will be reimbursed, not to exceed the total budget.

Agency: City of Clearwater Police Dept. FEID# 59-6000289
Address: 645 Pierce Street
City: Clearwater State: FL Zip: 33756

ACKNOWLEDGEMENT: By signing here, I certify that I have read and agree to abide by the pricing and all terms and conditions of this Agreement and that I am authorized to sign for the **Clearwater Police Department**.

Authorized Signature: _____ Date: _____

Printed Name: George N. Cretelos

Title: Mayor

*Actual Average is calculated as follows:

$$\frac{\text{Total \# of details} \times \text{\# officers per detail} \times \text{\# hours per details}}{\text{\# of weeks}}$$

FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

CFDA No.: 20.205

CFDA Title: HIGHWAY PLANNING AND CONSTRUCTION
Federal-Aid Highway Program, Federal Lands Highway Program

Awarding Agency: Florida Department of Transportation

Sub-Recipient University of South Florida

State and Federal Requirements

1. Responsibility of Sub-recipient. The sub-recipient and its implementing agency shall establish fiscal control and fund accounting procedures that assure proper disbursement and accounting of grant funds and required expenditures. All monies spent on this project shall be disbursed in accordance with provisions of the **Project Detail Budget** as approved by the FDOT State Safety Office Program Manager and must meet all state and federal regulations.

All expenditures and cost accounting of funds shall conform to 2 CFR, Part 200, **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**, herein incorporated by reference, (hereinafter referred to as Applicable Federal Law).

2. Compliance with Chapter 287, Florida Statutes. The sub-recipient and implementing agency agree to comply with all applicable provisions of Chapter 287, Florida Statutes. The following provisions are stated in this agreement pursuant to sections 287.133(2)(a) and 287.134(2)(a), Florida Statutes.

(a) Section 287.133 (2)(a), F.S. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

(b) Section 287.134 (2)(a), F.S. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

3. Allowable Costs. The allowability of costs incurred under any grant or contract shall be determined in accordance with the general principles of allowability and standards for selected cost items set forth in the Applicable State and Federal Law, to be eligible for reimbursement. All funds not spent in accordance with the Applicable State and Federal Law will be subject to repayment by the sub-recipient. **Only costs directly related to this approved project shall be allowable.**

4. Amendments. The sub-recipient or implementing agency shall obtain prior written approval from the State Safety Office Program Manager for changes to the agreement. Amendments to the agreement will be approved which achieve or improve upon the outcome of the project as determined by the funding agency and any state or federal regulations that govern such changes.

Requests for amendment shall be in the form of a written request signed by the Authorized Representative of the sub-recipient or the Administrator of the Implementing Agency.

Delegations of signature authority will not be accepted for amendment requests without prior written approval.

5. Reimbursement Obligation. The State of Florida's performance and obligation to reimburse the sub-recipient shall be subject to the availability of Federal highway safety funds and an annual appropriation by the Legislature. As detailed in 49 CFR, Part 29, **Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)**, herein incorporated by reference, the sub-recipient shall not be reimbursed for the cost of goods or services received from contractors, consultants, vendors, or individuals suspended, debarred, or otherwise excluded from doing business with the Federal government. The sub-recipient or its implementing agency shall submit the required certification by consultants with awards in excess of the small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently \$25,000).

6. Commencement of Projects. If a project has not commenced within 30 days after the acceptance of the grant award, the sub-recipient or its implementing agency shall report by letter the steps taken to initiate the project, the reasons for delay, and the expected starting date. If, after 60 days from the acceptance of the award, project activity as described herein has not begun, a further statement of implementation delay will be submitted by the sub-recipient or its implementing agency to the FDOT State Safety Office Program Manager. The sub-recipient agrees that if the letter is not received in the 60 days, the FDOT State Safety Office Program Manager may cancel the project. The FDOT State Safety Office Program Manager, where warranted by excusable delay, may extend the implementation date of the project past the 60-day period. In this case, formal written approval will be provided to the sub-recipient from the FDOT State Safety Office Program Manager.

7. Obligation of Grant Funds.

Funds may not be obligated prior to the effective date or subsequent to the end date of the grant period. Only project costs incurred on or after the effective date and on or prior to the end date of the grant are eligible for reimbursement. A cost is incurred when the sub-recipient's employee, its implementing agency, or approved contractor or consultant performs the service required or when goods are received by the sub-recipient or its implementing agency, notwithstanding the date of order.

8. Performance. In the event of default, noncompliance, or violation of any provision of this agreement by the sub-recipient, the implementing agency, the sub-recipient's consultant(s) or contractor(s) and supplier(s), the sub-recipient agrees that the Department will impose sanctions. Such sanctions include withholding of reimbursements, retainage, cancellation, termination, or suspension of the agreement in whole or in part. In such an event, the Department shall notify the sub-recipient and its implementing agency of such decision 30 days in advance of the effective date of such sanction. The sanctions imposed by the Department will be based upon the severity of the violation, the ability to remedy, and the effect on the project. The sub-recipient shall be paid only for those services satisfactorily performed prior to the effective date of such sanction.

9. Access to Public Records and Monitoring. The Department, Federal Highway Administration (FHWA), Chief Financial Officer (CFO), and Auditor General (AG) of the State of Florida, or any of their duly authorized representatives, shall have access for the purpose of audit and examination of books, documents, papers, and records of the sub-recipient and its implementing agency, and to relevant books and records of the sub-recipient, its implementing agency, and its consultants and contractors under this agreement, as provided under Applicable Federal Law.

In addition to review of audits conducted in accordance with 2 CFR Part 200, herein incorporated by reference, monitoring procedures will include, on-site visits by Department staff, limited scope audits as defined by 2 CFR Part 200, and status checks of grant activity via telephone calls from FDOT State Safety Office staff to sub-recipients. By entering into this agreement, the sub-recipient and its implementing agency agree to comply and cooperate with monitoring procedures. In the event that a limited scope audit of the sub-recipient or its implementing agency is performed, the sub-recipient agrees to bring the project into compliance with the grant agreement. The sub-recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

The sub-recipient and implementing agency agree to comply with all provisions provided in Chapter 119 Florida Statutes. If the sub-recipient receives a public records request concerning its work undertaken pursuant to a Department contract, the sub-recipient must take appropriate action as required by Chapter 119, Florida Statutes.

The Department shall unilaterally cancel this grant if the sub-recipient or its implementing agency refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the sub-recipient or its implementing agency in conjunction with the grant.

Records of costs incurred under the terms of this grant shall be maintained and made available upon request to the Department at all times during the period of this grant and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the sub-recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

10. Audit. The administration of resources awarded through the Department to the sub-recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or limit the authority of any State agency inspector general, the State of Florida Auditor General or any other State official. The sub-recipient shall comply with all audit and audit reporting requirements as specified below.

(a) In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the sub-recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The sub-recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO) or State of Florida Auditor General.

(b) The sub-recipient, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a sub-recipient of a Federal award awarded by the Department through this Agreement is subject to the following requirements:

(1) In the event the sub-recipient expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the sub-recipient must have a Federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. This Agreement provides the required Federal award identification information needed by the sub-recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the sub-recipient must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida

Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

(2) In connection with the audit requirements, the sub-recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

(3) In the event the sub-recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the sub-recipient is exempt from Federal audit requirements for that fiscal year. However, the sub-recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the sub-recipient's audit period for each applicable audit year. In the event the sub-recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the sub-recipient's resources obtained from other than Federal entities).

(4) The sub-recipient must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements,

(5) Within six months of acceptance of the audit report by the FAC, the Department will review the sub-recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the sub-recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

- a. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;

- b. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
- c. Wholly or partly suspend or terminate the Federal award;
- d. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
- e. Withhold further Federal awards for the Project or program;
- f. Take other remedies that may be legally available.

(6) As a condition of receiving this Federal award, the sub-recipient shall permit the Department, or its designee, the CFO or State of Florida Auditor General access to the sub-recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

(7) The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
 605 Suwannee Street
 Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

(8) The sub-recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, the CFO or State of Florida Auditor General access to such records upon request. The sub-recipient shall ensure that the audit working papers are made available to the Department, or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

11. Cooperation with Inspector General. The sub-recipient agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

12. Retention of Records. The sub-recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five years from the date the audit report is issued, and shall allow the Department, or its designee, the state CFO, or Auditor General access to such records upon request. The sub-recipient shall ensure that the independent audit working papers are made available to the Department, or its designee, the state CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

13. Procedures for Reimbursement. All requests for reimbursement must contain full details of each expenditure sufficient to support a proper pre-audit and post audit based on the quantifiable, measurable, and verifiable units of deliverables and costs. All requests for reimbursement must include a copy of each executed contract or purchase order, a copy of the vendor invoice with the required certification statement, exact dates of service, and proof of payment by the sub-recipient in order to be considered for reimbursement. All deliverables and required reports for the period of performance must also be received and accepted by the FDOT State Safety Office prior to reimbursements being processed for payment. Failure to submit reports, deliverables, and/or reimbursement requests in a timely manner may result in the termination of the grant. All requests for reimbursement shall be signed by an Authorized Representative of the Sub-recipient or the Administrator of the Implementing Agency, or their delegate.

Payment shall be made only after receipt and approval of goods and services. If the Department determines that the performance of the sub-recipient is unsatisfactory, the Department shall notify the sub-recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The sub-recipient shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the sub-recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the sub-recipient shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the sub-recipient resolves the deficiency. If the deficiency is subsequently resolved, the sub-recipient may bill the Department for the retained amount during the next billing period. If the sub-recipient is unable to resolve the deficiency, the funds retained will be forfeited at the end of the Agreement's term.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for sub-recipients who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

14. Accountability. The sub-recipient or its implementing agency shall establish and administer a system to control, protect, preserve, use, and maintain and track any property or materials purchased pursuant to this agreement.

15. Disputes and Appeals. Any dispute, disagreement, or question of fact arising under the agreement may be addressed to the Program Manager in the FDOT State Safety Office in writing. The Program Managers decision may be appealed in writing within 30 calendar days from the notification to the Governor's Highway Safety Representative, whose decision is final. Address' are:

Florida Department of Transportation
Attn: Trenda McPherson, State Bicycle Pedestrian Safety Program Manager
State Safety Office, MS 53
605 Suwannee Street
Tallahassee, Florida 32399-0450

Florida Department of Transportation
Attn: Governor's Highway Safety Representative
State Safety Office, MS 53
605 Suwannee Street
Tallahassee, Florida 32399-0450

The sub-recipient and its implementing agency shall proceed diligently with the performance of the agreement and in accordance with Department's decision(s).

16. Conferences and Inspection of Work. Conferences may be held at the request of any party to this agreement. Representatives of the Department or the U.S. Department of Transportation (USDOT), or both, shall be privileged to visit the site for the purpose of inspection and assessment of work being performed at any time.

17. Responsibility for Claims and Liability. Subject to the limitations of Section 768.28, Florida Statutes, the sub-recipient and its implementing agency shall be required to defend, hold harmless and indemnify the Department, NHTSA, FHWA, and USDOT, from all claims and liability, or both, due to negligence, recklessness, or intentional wrongful misconduct of sub-recipient, implementing agency, and its contractor, consultant, agents and employees. The sub-recipient and its implementing agency shall be liable for any loss of, or damage to, any material purchased or developed under this grant agreement which is caused by the sub-recipient's or its implementing agency's failure to exercise such care in regard to said material as a reasonable careful owner of similar materials would exercise. The parties executing this agreement specifically agree that no provision in this agreement is intended to create in the public or any member thereof, a third party beneficiary, or to authorize anyone not a party to this agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this agreement.

18. How Agreement is Affected by Provisions Being Held Invalid. If any provision of this agreement is held invalid, the remainder of this agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

19. Disadvantaged Business Enterprises (DBE).

(a) The sub-recipient and its implementing agency agree to the following assurance: The sub-recipient and its implementing agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program required by 49 CFR, Part 26, herein incorporated by reference. The sub-recipient shall take all necessary and reasonable steps under 49 CFR, Part 2 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sub-recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.), herein incorporated by reference.

(b) The sub-recipient and its implementing agency agree to include the following assurance in each contract with a consultant or contractor and to require the consultant or contractor to include this assurance in all subcontract agreements:

The consultant or contractor and consultant or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant or contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of USDOT-assisted contracts. Failure by the consultant or contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the sub-recipient, its implementing agency, or the Department deems appropriate.

20. Clean Air Act and Federal Water Pollution Control Act. For grant awards in excess of \$100,000 the sub-recipient and its implementing agency agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), herein incorporated by reference. The sub-recipient shall include this provision in all subcontract awards in excess of \$100,000.

21. Safety Belt Policy. Each sub-recipient and implementing agency shall have a written safety belt policy, which is enforced for all employees. A copy of the policy shall be submitted with the grant application form.

22. Equal Employment Opportunity. No person shall, on the grounds of race, color, religion, sex, handicap, or national origin, be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination under this grant, or any project, program, or activity that receives or benefits from this grant award. The sub-recipient and its implementing agency agree to comply with Executive Order (E.O.) 11246, as amended by E.O. 11375, and as supplemented by 41 CFR, Part 60, herein incorporated by reference.

23. E-Verify. Sub-recipients:

(a) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and (b) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

24. State and Federal Compliance. The sub-recipient and implementing agency unilaterally agrees to comply with all State and Federal Regulations referenced within and pursuant to this agreement.