



U.S Department of Transportation

Federal Railroad Administration

Cooperative Agreement

1. RECIPIENT NAME AND ADDRESS

Brightline Trains Florida LLC

161 NW 6th St Ste 900

Miami, FL 33136-4114

2. AGREEMENT NUMBER: 69A36520501080CRSFL

3. AMENDMENT NO. 0

4. PROJECT PERFORMANCE PERIOD: FROM 09/01/2020 TO 08/31/2022

5. FEDERAL FUNDING PERIOD: FROM 09/01/2020 TO 08/31/2022

1A. IRS/VENDOR NO. 352369219

1B. DUNS NO. 080258571

6. ACTION New

7. CFDA#: 20.325

TITLE

FEDERAL

NON-FEDERAL

TOTAL

8. PROJECT TITLE

South Florida East Coast Rail Corridor Intrusion Prevention Project

9. PREVIOUS AGREEMENTS

0.00

0.00

0.00

10. THIS AGREEMENT

2,373,441.00

928,006.00

3,301,447.00

11. TOTAL AGREEMENT

2,373,441.00

928,006.00

3,301,447.00

12. INCORPORATED ATTACHMENTS

THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:

Standard Terms and Conditions, Attachment 1; Consolidated Rail Infrastructure and Safety Improvements Clauses, Attachment 1A; Statement of Work, Attachment 2; Deliverables and Approved Project Schedule, Attachment 3; Approved Project Budget, Attachment 4; Performance Measurements, Attachment 5

13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT

49 U.S.C. 22907 / Consolidated Appropriations Act, 2017, Public Law No. 115-31 (May 5, 2017)

14. REMARKS

GRANTEE ACCEPTANCE

AGENCY APPROVAL

15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL

Mr. Patrick Goddard

President

17. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL

Jamie Rennert

Director, Office of Railroad Policy & Development

16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL

Electronically Signed

16A. DATE

09/10/2020

18. SIGNATURE OF AUTHORIZED FRA OFFICIAL

Electronically Signed

18A. DATE

09/10/2020

AGENCY USE ONLY

19. OBJECT CLASS CODE: 41010

20. ORGANIZATION CODE: 9010000000

21. ACCOUNTING CLASSIFICATION CODES

DOCUMENT NUMBER

FUND

BY

BPAC

AMOUNT

FR-CRS-0021-20-01-00

27X2811017

2020

10030142AA

2,373,441.00

AWARD ATTACHMENTS

Brightline Trains Florida LLC

69A36520501080CRSFL

1. Standard Terms and Conditions, Attachment 1
2. Consolidated Rail Infrastructure and Safety Improvements Clauses, Attachment 1A
3. Statement of Work, Attachment 2
4. Deliverables and Approved Project Schedule, Attachment 3
5. Approved Project Budget, Attachment 4
6. Performance Measurements, Attachment 5

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

Grant Agreement – Attachment 1
STANDARD TERMS AND CONDITIONS

August 2020

PART I. ATTACHMENT OVERVIEW AND DEFINITIONS

Attachment 1 is part of the Agreement and contains the standard terms and conditions governing the execution of the Project and the administration of the Agreement. By entering into this Agreement with the Federal Railroad Administration (FRA), the Grantee agrees to comply with these terms and conditions and all applicable Federal laws and regulations, including those discussed in this Agreement. Terms that appear frequently throughout the Agreement are defined, as follows:

- a. **Agreement** means this Grant Agreement, including all attachments and amendments. As used on the Agreement cover sheet, section 9 “Previous Agreements” refers to the amount of the original Agreement, together with, if applicable, all amounts from amendments to the Agreement that precede the current amendment. As used on the Agreement cover sheet, section 10 “This Agreement” refers to the amount being added or subtracted with the current amendment, if applicable, or the original Agreement. As used on the Agreement cover sheet, and section 11 “Total Agreement” refers to the combined amounts of Section 9 “Previous Agreements” and Section 10 “This Agreement”.
- b. **Application** means the signed and dated application submitted by or on behalf of the Grantee, as may be amended, seeking Federal financial assistance for the Project, together with all explanatory, supporting, and supplementary documents, assurances and certifications filed with and accepted by FRA or DOT.
- c. **Approved Project Budget** is in Attachment 4 to this Agreement and means the most recently dated written statement, approved in writing by FRA, of the estimated total cost of the Project. The term "Approved Project Budget" also includes "Financial Plan" as used in 2 C.F.R. § 200.308.
- d. **Approved Project Schedule** is in Attachment 3 to this Agreement.
- e. **Authorized Representative** means the person(s) at FRA or the Grantee who is able and approved to communicate on behalf of the organization, perform the referenced action, or commit the organization to the referenced action, pursuant to the organization’s internal policies, procedures, or reporting structure.
- f. **DOT** means the United States Department of Transportation, including its operating administrations.
- g. **Effective Date** means the earlier of the federal award date and the beginning of the Project Performance Period.
- h. **Federal Contribution** means the amounts obligated, whether paid or not, by FRA to the Grantee under this Agreement as shown in the “Federal” column in sections 9, 10 and 11 of the Agreement cover sheet.
- i. **Federal Funding Period** means the period that FRA provides funds under this

Agreement as shown in section 5 of the Agreement cover sheet.

- j. **Federal Government** means the United States of America and any executive department or agency thereof.
- k. **Federal Railroad Administration or FRA** is an operating administration of the DOT and the Federal Awarding Agency for this Agreement.
- l. **Grantee** means the entity identified on the Agreement cover sheet that receives Federal grant assistance directly from FRA for the accomplishment of the Project referenced in this Agreement.
- m. **Grant** as used in this Agreement means funding awarded through a grant agreement as well as funding awarded through a cooperative agreement as each of those terms is defined in 2 C.F.R. Part 200.
- n. **Non-Federal Contribution** means any amount, as shown under the “Non-Federal” column in sections 9, 10 and 11 of the Agreement cover sheet, including matching funds as used in 2 C.F.R. Part 200, not funded by FRA under this Agreement, regardless of whether the source of any or all of such contribution is a Federal source.
- o. **Pre-Agreement Costs** means “pre-award costs,” as that term is defined in 2 C.F.R. § 200.458.
- p. **Project** means the task or set of tasks set forth in the Statement of Work.
- q. **Project Performance Period** means “period of performance” as defined in 2 C.F.R. § 200.77 and described in 2 C.F.R. § 200.309, and is shown in section 4 of the Agreement cover sheet.
- r. **Statement of Work** means a detailed description of the work the Grantee will complete with the grant funding from this Agreement, and appears in Attachment 2 to this Agreement.
- s. **Total Federal Assistance** means the combined total of the Federal Contribution and the portion, if any, of the Non-Federal Contribution that is from a Federal source.

Additional definitions are found in 2 C.F.R. Part 200, Subpart A, and these Subpart A definitions are incorporated herein by reference and made a part hereof. Subpart A definitions incorporated herein are not capitalized in this Agreement.

PART II. GENERAL TERMS AND CONDITIONS

1. Grant Agreement:

This Agreement constitutes the entire agreement between the Grantee and FRA. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement. This Agreement is governed by and subject to 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and DOT's implementing regulations at 2 C.F.R. Part 1201.

2. FRA Role:

This Agreement is between FRA and the Grantee. FRA is responsible for funding disbursements to the Grantee under this Agreement. FRA will also conduct oversight and monitoring activities to assess Grantee progress against established performance goals and the Statement of Work, as well as to assess compliance with terms and conditions and other requirements of this Agreement.

If this award is made as a Cooperative Agreement, FRA will have substantial programmatic involvement. Substantial involvement means that, after award, technical, administrative, or programmatic staff will assist, guide, coordinate, or otherwise participate with the Grantee in Project activities.

FRA may provide professional staff to review work in progress, completed products, and to provide or facilitate access to technical assistance when it is available, feasible, and appropriate, which may include the following:

- a. Financial Analyst. The Financial Analyst will serve as the Grantee's point of contact for systems (e.g., GrantSolutions and the Delphi eInvoicing System) access and troubleshooting as well as for financial monitoring. The Financial Analyst is not authorized to unilaterally change the Statement of Work, make any changes which affect this Agreement's monetary amount, the delivery schedule, Project Performance Period or other terms or conditions.
- b. Grant Manager. The Grant Manager will serve as the Grantee's point of contact for grant administration and will oversee compliance with the terms and conditions in this Agreement. The Grant Manager reviews financial reports, performance reports, and works with the Regional Manager to facilitate effective Project delivery. The Grant Manager is not authorized to unilaterally change the Statement of Work, make any changes which affect this Agreement's monetary amount, Project Performance Period, or other terms and conditions.
- c. Regional Manager. The Regional Manager will be the Grantee's point of contact for the technical aspects of Project delivery. The Regional Manager coordinates Project deliverable review, evaluates Grantee technical assistance needs, and generally assesses Project progress and performance. The Regional Manager is not authorized to unilaterally change the Statement of Work, make any changes which affect this

Agreement's monetary amount, Project Performance Period, or other terms and conditions.

- d. **Contact Information.** FRA strongly prefers electronic submission of most documents (instructions for electronic submission are included under various requirements outlined in Part II of this attachment). If the Grantee must mail documentation, that documentation should be delivered to the Grant Manager at:

Federal Railroad Administration
Office of Railroad Policy and Development
Mail Stop 20
1200 New Jersey, SE
Washington, DC 20590
ATTN: (ASSIGNED GRANT MANAGER)

3. Grantee Responsibility and Authority:

The Grantee affirms that it had and has, as applicable, the legal authority to apply for the Grant, to enter into this Agreement, and to finance and carry out the proposed Project. The Grantee further affirms that any required resolution, motion or similar action has been duly adopted or passed as an official act authorizing the filing of the Application, where applicable, including all understandings and assurances contained therein, and the entering into of this Agreement. The Grantee will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Agreement without the written approval of the FRA, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Grantee. The Grantee agrees that this will be done in a manner acceptable to the FRA.

4. Project Scope, Schedule, and Budget:

The Grantee agrees to carry out, complete and ensure the use of the Project in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement, including the Approved Project Budget, the Statement of Work, the Approved Project Schedule, grant guidance, the Application as applicable, and all applicable laws, regulations, and published policies.

- a. **Scope.** The Grantee will furnish all personnel, facilities, equipment, and other materials and services, except as otherwise specified herein, that are necessary to complete the approved Project, in accordance with the representations, certifications and assurances set forth in the Grantee's Applications(s) as applicable, and any amendments thereto, incorporated herein by reference and made a part hereof.
- b. **Schedule.** The Grantee will complete this Project, as documented in the Statement of Work, within the Project Performance Period. Schedule and Project Performance

Period extension requests may be permitted, at the discretion of the FRA, subject to applicable law. The Grantee should request such an extension no later than 90 days prior to the Project Performance Period end date.

- c. Budget. The Grantee will complete the Project within the funding limits and parameters specified on the Agreement cover sheet and the Statement of Work.
 - 1) Project Costs and Funding Contributions. The Federal Contribution, Non-Federal Contribution and total estimated Project costs toward this Project are documented in sections 9, 10 and 11 of the Agreement cover sheet and may not be changed without a written request and justification from the Grantee, written approval from FRA, and an amendment or closeout to the Agreement. FRA will fund the Project at the lesser of the Federal Contribution or the Federal Contribution percentage of total Project costs, as reflected in sections 9, 10 and 11 of the Agreement cover sheet and the Statement of Work.
 - 2) Non-Federal Contribution. The Grantee is responsible for completing the Project, including providing the Non-Federal Contribution and any other funds necessary for completing the Project. The Grantee affirms that it will complete all actions necessary to provide the Non-Federal Contribution at or before the time that such funds are needed to meet Project expenses. The Grantee also affirms that it has sufficient funds available to assure operation and maintenance of items funded under this Agreement that it will own or control.
 - 3) Project Budget Detail. The Grantee agrees to carry out the Project according to the Approved Project Budget. The Grantee agrees to obtain the prior written approval from FRA for any revisions to this Approved Project Budget that equal or cumulatively exceed 10 percent of any budget line item (or pertain to a cost category involving contingency or miscellaneous costs), or amount to a reallocation of 10 percent or more of the total Approved Project Budget across cost categories.
- d. Property and Equipment.
 - 1) The Grantee will operate the property and equipment funded with this Agreement for the originally authorized purpose.
 - 2) If the Grantee is not the entity operating the property and/or equipment funded with this Agreement, then the Grantee represents that it will ensure the property and equipment funded with this Agreement will be used for the originally authorized purpose, if necessary, through appropriate arrangements with:
 - i. The entity or entities operating the property and/or equipment funded with this Agreement; and

- ii. If applicable, the owner of right-of-way used by the property and/or equipment funded with this Agreement.
- e. **Pre-Agreement Costs.** Grantee may request approval of Pre-Agreement costs incurred after the date of selection. Such a request must demonstrate the purpose and amount of the costs, and whether such costs serve as cost-sharing or matching funds. If FRA approves Pre-Agreement Costs, within the constraints described in the Statement of Work, the Grantee may seek reimbursement for these costs on or after the start of the Federal Funding Period specified on the Agreement cover sheet. Such costs are allowable for reimbursement only to the extent that they are otherwise allowable under the terms of this Agreement, and are consistent with 2 C.F.R. § 200.458.

5. Grant Amendments:

Other than close-out, modifications to this Agreement may be made only in writing, signed by an Authorized Representative for FRA and the Grantee, and specifically referred to as an amendment to this Agreement.

6. Flow Down Provisions:

The Grantee will ensure persons or entities that perform any part of the work under this Agreement, including Subrecipients, as defined in 2 C.F.R. § 200.93, or Contractors, as defined in 2 C.F.R. § 200.23, will comply with applicable federal requirements and federal guidance, and the applicable requirements of this Agreement. Grantee agrees that flowing down such requirements does not relieve it of any obligation to comply with the requirements itself.

For each of the Grantee's subawards or contracts to perform all or part of the work under this Agreement:

- a. The Grantee must include applicable grant regulations in the subaward or contract and ensure compliance with these provisions, including applicable provisions of 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and DOT's implementing regulations at 2 C.F.R. Part 1201 *See* 2 C.F.R. § 200.101.
- b. The Grantee must include applicable federal statutory and regulatory requirements in the subaward or contract and ensure compliance with these requirements, including applicable limitations on use of federal funds.
- c. The Grantee must include any other applicable requirements of this Agreement in the subaward or contract and ensure compliance with these requirements.
- d. There will be provisions for the further flow down of the regulations and requirements in subsections (A) and (B) of this section to each subsequent subaward or subcontract, as required.

7. Successors and Assigns:

The Grantee is not authorized to assign this Agreement without FRA's express prior written consent.

8. Execution:

This Agreement may be executed by the Grantee and FRA in separate counterparts, each of which when so executed and delivered will be deemed an original.

9. Changed Conditions of Performance (Including Litigation):

The Grantee agrees to immediately notify FRA, in a written statement to the FRA Grant Manager, of any change in local law, conditions, or any other event that may affect its ability to perform the Project in accordance with the terms of this Agreement. In addition, the Grantee agrees to immediately notify the FRA Grant Manager of any decision pertaining to the Grantee's conduct of litigation that may affect FRA's interests in the Project or FRA's administration or enforcement of applicable federal laws or regulations. Before the Grantee may name FRA as a party to litigation for any reason, the Grantee agrees first to inform the FRA Grant Manager in writing; this proviso applies to any type of litigation whatsoever, in any forum.

10. Severability:

If any provision of this Agreement is held invalid, all remaining provisions of this Agreement will continue in full force and effect to the extent not inconsistent with such holding.

11. Right of FRA to Terminate:

- a. The Grantee agrees that, upon written notice, FRA may suspend and/or terminate all or part of the Federal Contribution if:
 1. Grantee fails to meet or violates the terms, conditions and obligations specified under this Agreement;
 2. Grantee fails to make reasonable progress on the Project;
 3. Grantee fails to provide the Non-Federal Contribution;
 4. Grantee violates any other provision of this Agreement that significantly endangers substantial performance of the Project;
 5. FRA determines that the purposes of the statute(s) under which the Project is authorized or funded would not be adequately served by continuation of the Federal Contribution; or
 6. FRA determines that termination of this Agreement is in the public interest.
- b. In general, suspension and/or termination of any part of the Federal Contribution will not invalidate obligations properly incurred by the Grantee and concurred in by FRA

before the termination date; to the extent those obligations cannot be canceled. However, FRA reserves the right to require the Grantee to refund the entire amount of the Federal Contribution provided under this Agreement or any lesser amount as may be determined by FRA in its sole discretion, if FRA determines that the Grantee has willfully misused the Federal Contribution, including by:

1. Failing to make adequate progress
2. Failing to make reasonable use of the Project property, facilities, or equipment, or
3. Failing to adhere to the terms of this Agreement.

12. Term

This Agreement is in effect from the Effective Date until the end of the closeout period, regardless of whether FRA suspends or terminates all or part of the Federal Contribution provided herein. The expiration of any time period for performance or funding established for this Project does not, by itself, constitute an expiration or termination of this Agreement.

The end of the closeout period of this Agreement does not affect continuing obligations under 2 C.F.R. Part 200, including those in 2 C.F.R. § 200.344. Any right or obligation of the parties in this Agreement or the closeout notification which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

PART III. GRANT MANAGEMENT TERMS AND CONDITIONS

Performance and Reporting Provisions

13. Deliverables and Products:

The Grantee will submit deliverables, including publications or other products, to FRA as stipulated in this Agreement. Substantive changes to the nature of the deliverables or significant timeline modifications require advanced written approval and may require an Amendment to this Agreement.

The Grantee will submit deliverables that adhere to all applicable laws, regulations, and FRA guidance within the timeframes established. In some instances, as articulated in the Statement of Work, the Grantee may be required to submit deliverables and obtain approval from FRA prior to continuing all or a portion of the work on the Project. Accordingly, the Grantee must account for FRA deliverable review time when planning work or submissions.

Whether for technical examination, administrative review, publication, or approval, all deliverable submissions will be of a professional quality and suitable for their intended purpose.

14. Quarterly Progress Reports:

The Grantee will submit one completed progress report quarterly (totaling four annually), in the form/format provided by FRA at <http://www.fra.dot.gov/Page/P0274>. For the duration of the Project Performance Period, the Grantee must report for the periods of: January 1 – March 31; April 1 – June 30; July 1 – September 30; and October 1 – December 31. The Grantee will furnish one copy of the completed progress report to the assigned FRA Grant Manager on or before the thirtieth (30th) calendar day of the month following the end of the quarter for which the report is submitted.

The Grantee will complete the report in its entirety with the most accurate information available at the time of reporting. The Grantee must be able to support the information contained in its progress reports and ensure that the activities described in the report are commensurate with reimbursement requests and/or outlay figures reported for the quarter. This report will be consistent with 2 C.F.R. § 200.301

15. Quarterly Federal Financial Reports:

The Grantee will submit the Federal Financial Report (Standard Form 425) on the same schedule as the required quarterly progress report (listed above). Reports should be submitted online through GrantSolutions. Reports will be submitted in accordance with the form's instructions. The final SF-425 is due within 90 days after the end of the Project Performance Period, but may be submitted as soon as all outstanding expenditures have been completed. The Grantee must be able to support the information contained in its financial reports and will ensure that all data included in the reports is accurate and consistent.

16. Interim and Final Performance Reports:

If required by the Statement of Work, the Grantee will submit interim reports at the intervals specified in the Statement of Work. The Grantee must submit a Final Performance Report via email to the FRA Grant Manager when the Project(s) funded through this Agreement are completed. The Grantee must complete closeout activities and submit reports, no later than 90 days after the end of the Project Performance Period for this Agreement or the FRA termination date.

17. Project Completion and Closeout:

- a. **Final Documentation.** As soon as the funded Project(s) are complete, the Grantee will submit a final SF-425, a final Progress Report, a final Performance Report, and a final payment request. Closeout activities by Grantee, including submission of the referenced documents, must be completed no later than 90 days after the end of the Project Performance Period for this Agreement or the FRA termination date.
- b. **Excess Payments.** If FRA has made payments to the Grantee in excess of the total amount of FRA funding due, the Grantee will promptly remit that excess and interest

as may be required by section 20(f) of this Attachment.

- c. Closeout. Grantees should begin closeout procedures when their Project(s) is complete. The Project closeout period is complete when all of the following is complete: 1) the required Project work is complete; 2) all administrative procedures described in 2 C.F.R. Part 200 (all sections), as applicable, have been completed; and 3) when FRA either notifies the Grantee of closeout or when FRA acknowledges the Grantee's remittance of a proper refund. Project closeout will not invalidate any continuing obligations imposed on the Grantee by this Agreement, including 2 C.F.R. § 200.344, or by the FRA's final notification or acknowledgment.

18. Transparency Act Requirements—Reporting Subawards and Executive Compensation:

The Grantee will comply with the provisions of the Federal Funding Transparency and Accountability Act of 2006 (Pub. L. 109-282) and 2 C.F.R Part 170, incorporated herein by reference and made part hereof. For more information, visit <https://www.fsr.gov/>.

19. Recipient Integrity and Performance Matters

- a. General Reporting Requirement. If the total value of the Grantee's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the Project Performance Period, then the Grantee during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in subsection (b) of this section. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

- b. Proceedings About Which the Grantee Must Report.

Submit the information required about each proceeding that:

- 1) Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government;
- 2) Reached its final disposition during the most recent five-year period; and
- 3) Is one of the following:
 - A criminal proceeding that resulted in a conviction, as defined in subsection (e) of this section;

- A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - An administrative proceeding, as defined in subsection (e) of this section, that resulted in a finding of fault and liability and the Grantee's payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - Any other criminal, civil, or administrative proceeding if:
 - It could have led to an outcome described in subsection (b)(3) of this section;
 - It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Grantee's part; and
 - The requirement in this section to disclose information about the proceeding does not conflict with applicable laws and regulations.
- c. Reporting Procedures. Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in section (b) of this section. The Grantee does not need to submit the same information a second time under assistance awards that the Grantee received if the Grantee already provided the information through SAM because the Grantee was required to do so under federal procurement contracts that the Grantee was awarded.
- d. Reporting Frequency. During any period of time when the Grantee is subject to the requirement in subsection (a) of this section, the Grantee must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that the Grantee has not reported previously or affirm that there is no new information to report. Recipients that have federal contract, grant and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.
- e. Definitions. For purposes of this section:
- 1) Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- 2) Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- 3) Total value of currently active grants, cooperative agreements, and procurement contracts includes—
 - Only the federal share of the funding under any federal award with a Grantee; and
 - The value of all expected funding increments under a federal award and options, even if not yet exercised.

Financial Management Provisions

20. Payments:

- a. Request by the Grantee for Payment. The Grantee's request for payment of the Federal Contribution of allowable costs will be made to FRA and will be acted upon by FRA as set forth in this section. For states, payments are governed by Treasury/State CMIA agreements, and default procedures codified at 31 C.F.R. Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies. Non-states must comply with the provisions of 2 C.F.R. §200.305(b). To receive a Federal Contribution payment, the Grantee must:
 - 1) Demonstrate or certify that it has made a binding commitment of the Non-Federal Contribution, if applicable, adequate when combined with the Federal Contribution, to cover all costs to be incurred under the Project as of the date of the request. A Grantee required by federal statute or this Agreement to provide Non-Federal Contribution for the Project agrees:
 - i. to refrain from requesting or obtaining any Federal Contribution that is more than the amount justified by the Non-Federal Contribution that has been provided; and
 - ii. to refrain from taking any action that would cause the proportion of the Federal Contribution at any time to exceed the percentages authorized under this Agreement. The phasing or expenditure rate of the Non-Federal Contribution may be temporarily adjusted only to the extent expressly provided in writing by an Authorized Representative of FRA.
 - 2) Submit to FRA all financial and progress reports required to date under this Agreement; and

- 3) Identify the funding source(s) provided under this Project, if applicable, from which the payment is to be derived.
- b. Reimbursement Payment by FRA. Unless otherwise approved by FRA, FRA will disburse funds to the Grantee on a reimbursable basis, whereby the Grantee will be reimbursed for actual expenses incurred and paid, after the submission of complete and accurate invoices and payment records. The Grantee's request for payment will be made to FRA through the Department of Transportation's Delphi eInvoicing System and will be acted upon as set forth in this section.
- 1) Delphi eInvoicing System first-time users must obtain access to the System by contacting the Financial Analyst. Additional information on the System can be found at www.dot.gov/cfo/delphi-einvoicing-system.html.
 - 2) Upon receipt of a payment request and adequate accompanying information (invoices in accordance with applicable cost principles), FRA will authorize payment by direct deposit, provided the Grantee: (i) is complying with its obligations under this Agreement; (ii) has satisfied FRA that it needs the requested Federal Contribution for the period covered by the payment request (as identified on the Standard Form 270 Request for Advance or Reimbursement (SF-270)); and (iii) is making adequate and timely progress toward Project completion. If all these circumstances are present, FRA may reimburse allowable costs incurred by the Grantee up to the maximum amount of the Federal Contribution.

The Grantee agrees to give a written, five-day notice to the assigned FRA Grant Manager for any payment request totaling \$50 million or more. Grantees should note that FRA is unable to process single payment requests greater than \$99,999,999. The Grantee agrees to adhere to and impose upon its subrecipients all applicable foregoing "Reimbursement Payment by FRA" requirements of this Agreement.

If the Grantee fails to adhere to the foregoing "Reimbursement Payment by FRA" requirements of this Agreement, FRA may withhold funding disbursements.

- c. Allowable Costs. FRA will reimburse the Grantee's expenditures, within the Federal Funding Period, only if they meet all of these requirements:
- 1) Conform to the Project description, the Statement of Work, the Approved Project Budget, and all other terms of this Agreement;
 - 2) Be necessary in order to accomplish the Project;
 - 3) Be reasonable for the goods or services purchased;
 - 4) Be actual net costs to the Grantee (i.e., the price paid minus any applicable

credits, refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred);

- 5) Be incurred (and be for work performed) within the Project Performance Period, unless specific authorization from FRA to the contrary is received in writing;
 - 6) Unless permitted otherwise by federal statutes or regulation, conform to federal guidelines or regulations and federal cost principles, as set forth in 2 C.F.R. Subpart E § 200.400 – 200.475.
 - 7) Be satisfactorily documented; and
 - 8) Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by FRA for the Grantee, and those approved or prescribed by the Grantee for its subrecipients and contractors.
- d. Disallowed Costs. Disallowed costs include the following:
- 1) Any Project costs incurred, activities undertaken, or work performed outside of the Project Performance Period, unless specifically authorized by FRA in writing, allowed by this Agreement, or otherwise permitted by federal law or regulation;
 - 2) Any costs incurred by the Grantee that are not included in the latest Approved Project Budget; and
 - 3) Any costs attributable to goods or services received under a contract or other arrangement that is required to be, but has not been, concurred in or approved in writing by FRA.

The Grantee agrees that reimbursement of any cost under this section does not constitute a final FRA decision about the allowability of that cost and does not constitute a waiver of any violation by the Grantee of the terms of this Agreement. The Grantee understands that FRA will not make a final determination about the allowability of any cost until an audit of the Project has been completed. If FRA determines that the Grantee is not entitled to receive any part of the Federal Contribution requested, FRA will notify the Grantee stating the reasons therefor. Project closeout will not alter the Grantee's obligation to return any funds due to FRA as a result of later refunds, corrections, or other transactions. Project closeout will not alter FRA's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, FRA may offset any Federal Contribution to be made available under this Agreement, as needed, to satisfy any outstanding monetary claims that the federal government may have against the Grantee. Exceptions pertaining to disallowed costs will be assessed based on their applicability, as set forth in the applicable federal cost principals or other written

federal guidance.

- e. Bond Interest and Other Financing Costs. To the extent permitted in writing by FRA and consistent with 2 C.F.R. § 200.449, bond interest and other financing costs are allowable.
- f. Requirement to Remit Interest. The Grantee agrees that any interest earned by the Grantee on the Federal Contribution must be handled in accordance with 2 C.F.R. §200.305, and remittance back to the federal government must be made in accordance with the provisions thereof.

21. Accounting Procedures:

- a. Project Accounts. The Grantee will establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in a manner consistent with 2 C.F.R. §§ 200.302, 200.303, and 200.305.
- b. Funds Received or Made Available for the Project. Grantees other than states will follow the provisions of 2 C.F.R. § 200.305(b)(7) with respect to the use of banks and other institutions as depositories of any advance payments that may be received under this Agreement. States will follow the provisions of 2 C.F.R. §200.305(a).
- c. Documentation of Project Costs and program income. All costs charged to the Project, including any approved services contributed by the Grantee or others, will be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Grantee will also maintain accurate records of all program income derived from Project implementation.
- d. Checks, Orders, and Vouchers. The Grantee will ensure that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project are clearly identified with a Grant Agreement number, readily accessible, and, to the extent feasible, kept separate from documents not pertaining to the Project.

22. Program Income:

The Grantee is encouraged to earn income to defray Project costs, where appropriate, and should work with the assigned FRA Grant Manager to determine how this income may be applied to the grant, in accordance with 2 C.F.R § 200.307 and 2 C.F.R. § 1201.80. Program income not deducted from total allowable costs may be used only for the purposes and under the terms and conditions established in this Agreement. Records of program income should be maintained consistent with subsection 21(c) of this Agreement.

Project Management Provisions

23. Environmental Protection:

- a. **Grantee Assistance.** Grantees must comply with the governing laws and regulations referenced in section 44(c) of this Attachment and may also be required to assist with FRA's compliance with applicable Federal laws, regulations, executive orders, and policies related to environmental review under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, and its implementing regulations (40 C.F.R. Part 1500 *et seq.*); FRA's "Procedures for Considering Environmental Impacts" (45 Fed. Reg. 40854, June 16, 1980), as revised May 26, 1999, 64 Fed. Reg. 28545, and as updated in 78 FR 2713, January 14, 2013) or 23 C.F.R. Part 771, as applicable; Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 *et seq.*) and its implementing regulations (36 C.F.R. Part 800); Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. § 303(c)), and its implementing regulations (23 C.F.R. Part 774). In providing such assistance, FRA may require that the Grantee conduct environmental and/or historic preservation analyses and to submit documentation to FRA.
- b. **Timing of Grantee Action.** The Grantee may not expend any of the funds provided in this Agreement on construction activities or other activities that represent an irretrievable commitment of resources to a particular course of action affecting the environment until FRA has provided the Grantee with a written notice authorizing the Grantee to proceed. See 23 C.F.R. 771.113(a).
- c. **Minimization, Avoidance and Mitigation Measures.** The Grantee must implement all measures to minimize, avoid, or mitigate adverse environmental impacts identified by FRA in the categorical exclusion, Finding of No Significant Impact, or Record of Decision for the Project. The Grantee must also implement any additional measures identified through all other environmental or historic preservation review processes conducted to support Project construction and operation (e.g., any commitments included in a Memorandum of Agreement executed pursuant to Section 106 of the NHPA).
- d. **Revisions to Minimization, Avoidance or Mitigation Measures.** The Grantee must provide FRA with written notice if it has not, or cannot, implement any of the minimization, avoidance or mitigation measures identified in subsection (c). Upon receiving such notice, FRA will provide the Grantee direction in writing, which may include substitute mitigation measures. FRA may also revise its categorical exclusion, Finding of No Significant Impact, or Record of Decision.

24. Property, Equipment and Supplies:

Unless otherwise approved by FRA, the following terms and conditions apply to property, equipment, and supplies funded under this Agreement:

- a. **General Federal Requirements.** The Grantee will comply with the property management standards of 2 C.F.R. §§ 200.310 through 200.316, including any amendments thereto, and other applicable guidelines or regulations. Exceptions to the requirements must be specifically approved by FRA in writing. The Grantee will use Project real property, as defined by 2 C.F.R. § 200.85, in accordance with the Property Standards of 2 C.F.R. § 200.311. Notwithstanding 2 C.F.R. § 200.313, subrecipients of states will comply with 2 C.F.R. § 1201.313 with respect to the use, management and disposal of equipment acquired under this Agreement.
- b. **Maintenance.** The Grantee agrees to maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations that FRA may issue.
- c. **Records.** The Grantee agrees to keep satisfactory records with regard to the use of the property, equipment, and supplies, and submit to FRA, upon request, such information as may be required to assure compliance with this section of this Agreement.
- d. **Transfer of Project Property, Equipment or Supplies.** The Grantee agrees that FRA may require the Grantee to transfer title to, or direct the disposition of, any property, equipment, or supplies financed with FRA assistance made available by this Agreement, as required by 2 C.F.R. §§ 200.311 – 200.316.
- e. **Withdrawn Property, Equipment or Supplies.** If any Project property, equipment, or supplies are not used for the Project for the duration of their useful lives, as determined by FRA, whether by planned withdrawal, misuse or casualty loss, the Grantee agrees to notify FRA immediately. Disposition of withdrawn property, equipment, or supplies will be in accordance with 2 C.F.R. §§ 200.311 – 200.316.
- f. **Encumbrance of Project Property or Equipment.** Unless expressly authorized in writing by FRA, the Grantee agrees not to:
 - 1) Execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would dispose of or encumber the Grantee's title or other interest in any Project property or equipment; or
 - 2) Obligate itself in any manner to any third party with respect to Project property or equipment. The Grantee will refrain from taking any action or acting in a manner that would adversely affect FRA's interest or impair the Grantee's continuing control over the use of Project property or equipment.

25. Relocation and Land Acquisition:

The Grantee agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 *et seq.* and the U.S. DOT implementing regulations, 49 C.F.R. Part 24.

26. Flood Hazards:

The Grantee agrees to comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any construction or acquisition project.

27. Procurement:

- a. Federal Standards. The Grantee may acquire property, goods or services in connection the Project. If the Grantee is a state, then it will use its own procurement procedures that reflect applicable state laws and regulations in compliance with 2 C.F.R. § 200.317. A subrecipient of a state will follow such policies and procedures allowed by that state when procuring property and services under this award consistent with 2 C.F.R. § 1201.317, notwithstanding 2 C.F.R. § 200.317. An entity that is not a state or a subrecipient will comply with 2 C.F.R. §§ 200.318 – 200.326, and applicable supplementary U.S. DOT or FRA directives and regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Grantee's technical specifications and requirements.
- b. Cargo Preference -- Grantee will comply with the U.S. DOT Maritime Administration regulations, 46 C.F.R. Part 381 as follows:
 - 1) Use of United States-flag vessels:
 - Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Agreement, and which may be transported by ocean vessel, will be transported on privately owned United States-flag commercial vessels, if available.
 - Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section will be furnished to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

- 2) The Grantee will insert the following clauses in contracts let by the Grantee in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project.

“Use of United States-flag vessels: The contractor agrees -

- 1) To utilize privately owned United States-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- 2) To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in subsection (1) above to the recipient (through the prime contractor in the case of subcontractor bills-of lading) and to the Division of Cargo Preference and Domestic Trade, Maritime Administration, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, marked with appropriate identification of the Project.
- 3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.”

- c. Notification Requirement. With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more, the Grantee agrees to:

- 1) specify in any announcement of the awarding of the contract for such goods or services the amount of Federal Contribution that will be used to finance the acquisition; and
- 2) express said amount as a percentage of the total costs of the planned acquisition.

- d. Debarment and Suspension; and Drug-Free Work Place. The Grantee agrees to obtain certifications on debarment and suspension from its third-party contractors and subrecipients and otherwise comply with U.S. DOT regulations, Nonprocurement Suspension and Debarment, 2 C.F.R. Part 1200, and Government-wide Requirements for Drug-Free Workplace (Grants), 49 C.F.R. Part 32.

- e. Participation by Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

- 1) agrees to: (a) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses; and (b) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals – regardless of race, gender, age, disability, and national origin – benefit from activities funded through this Agreement.
- 2) An example of a best practice under (b) above would be to incorporate key elements of the Department's Disadvantage Business Enterprise (DBE) program (see 49 C.F.R. Part 26) in contracts under this Agreement. This practice would involve setting a DBE contract goal on contracts funded under this Agreement that have subcontracting possibilities. The goal would reflect the amount of DBE participation on the contract that the Grantee would expect to obtain absent the effects of discrimination and consistent with the availability of certified DBE firms to perform work under the contract. When a DBE contract goal has been established by a Grantee, the contract would be awarded only to a bidder/offer that has met or made (or in the case of a design/build project, is committed to meeting or making) documented, good faith efforts to reach the goal. Good faith efforts are defined as efforts to achieve a DBE goal or other requirement of this Agreement which, by their scope, intensity, and appropriateness to the objective can reasonably be expected to achieve the goal or other requirement.
- 3) The Grantee must provide FRA a plan, using guidance provided by FRA, for incorporating the above best practice into its implementation of the Project within 60 days following execution of this Agreement. If the Grantee is not able to substantially incorporate Part 26 elements, in accordance with the above-described best practice, the Grantee agrees to provide the FRA with a written explanation and an alternative program for ensuring the use of contractors owned and controlled by socially and economically disadvantaged individuals.

28. Rights in Intangible Property:

- a. Title to Intangible Property. Intangible property, as defined in 2 C.F.R. § 200.59, acquired in the performance of this Agreement vests upon acquisition in the Grantee. The Grantee must use that property for the originally-authorized purpose, and must not encumber the property without approval of FRA. When no longer needed for the originally-authorized purpose, disposition of the intangible property must occur in accordance with the provisions of 2 C.F.R. § 200.313(e).
- b. Copyright. The Grantee may copyright any work that is subject to copyright and was developed or for which ownership was acquired under this Agreement. FRA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work, and to authorize others to do so.
- c. Patents. The following provisions will apply to patents under this Agreement:
 - 1) The Grantee is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements”.
 - 2) If the Grantee secures a patent with respect to any invention, improvement, or discovery of the Grantee or any of its subrecipients or contractors conceived or first actually reduced to practice in the course of or under this Project, the Grantee agrees to grant to FRA a royalty-free, nonexclusive, and irrevocable license to use and to authorize others to use the patented device or process.
- d. Research Data. For any research data (as defined in 2 C.F.R. § 200.315(e)(3)) acquired under a grant or contract, FRA has the right to:
 - 1) Obtain, reproduce, publish, or otherwise use the research data produced under this Agreement; and
 - 2) Authorize others to receive reproduce, publish, or otherwise use such data.
- e. Freedom of Information Act (FOIA). Responding to a FOIA request under this Agreement will be handled in accordance with the provisions of 2 C.F.R. § 200.315(e), including any definitional provisions set forth therein. The “Federal awarding agency” is FRA, and the “non-Federal entity” is the Grantee for purposes of this clause.

29. Acknowledgment of Support and Disclaimer:

- a. Acknowledgement and Disclaimer. An acknowledgment of FRA support and a disclaimer of said support must appear in any Grantee publication developed under a research and development grant, or any other product based on or developed under the Agreement as directed by FRA, whether copyrighted or not, in the following terms:
 - 1) "This material is based upon work supported by the Federal Railroad Administration under [Grant/Cooperative Agreement number], [date of award]."
 - 2) "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT."
- b. Signs. The Grantee is encouraged to erect at the site of any construction, and to maintain during construction, signs identifying the Project and indicating that FRA is participating in the development of the Project.

30. Reprints of Publications:

At such time as any article resulting from work under this Agreement is published in a scientific, technical, or professional journal or publication, two reprints of the publication should be sent to the FRA Grant Manager, clearly referenced with the appropriate identifying information.

Documentation and Oversight Provisions

31. Record Retention:

During the course of the Project and for three years after notification of grant closeout, the Grantee agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as FRA may require. In cases where litigation, a claim, or an audit is initiated prior to the expiration of the record retention period, records must be retained until completion of the action and resolution of issues or the end of the record retention period, whichever is later. Reporting and record-keeping requirements are set forth in 2 C.F.R. §§ 200.333 – 200.337. Project closeout does not alter these requirements.

32. Audit and Inspection.

- a. General Audit Requirements. The Grantee will comply with all audit requirements of 2 C.F.R. §§ 200.500 – 200.512.
- b. Inspection by Federal Officials. The Grantee agrees to permit the Secretary and the Comptroller General of the United States, or their Authorized Representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its contractors and subrecipients pertaining to the Project.

33. Fraud, Waste or Abuse:

The Grantee agrees to take all steps, including initiating litigation, if necessary, to recover the Federal Contribution if the FRA determines, after consultation with the Grantee, that all or a portion of such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project.

34. Site Visits:

FRA, through its Authorized Representatives, has the right, at all reasonable times, to make site visits to review Project activities, accomplishments, and management control systems and to provide such technical assistance as may be required. If any site visit is made by FRA under this Agreement on the premises of the Grantee, contractor, beneficiary or subrecipient, the Grantee will provide, or will ensure the provision of all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations will be performed in such a manner as will not unduly delay work being conducted by the Grantee or any subrecipient.

35. Safety Compliance:

To the extent applicable, the Grantee agrees to comply with any Federal regulations, laws, or policy and other guidance that FRA or U.S. DOT may issue pertaining to safety in general, and in the performance of this Agreement, in particular.

36. Electronic and Information Technology:

The Grantee agrees that reports or information it provides to or on behalf of FRA will use electronic or information technology that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194.

Other Legislative and Regulatory Provisions

37. Buy American:

The Grantee's acquisition of steel, iron and manufactured goods with funding provided through this Agreement is subject to the requirements set forth in the Buy American Act, 41 U.S.C. §§ 8301-8305, if applicable. The Grantee also represents that it has never been convicted of violating the Buy American Act nor will it make funding received under this Agreement available to any person or entity who has been convicted of violating the Buy American Act.

38. Ethics:

- a. Standards of Conduct. The Grantee will maintain a written code or standards of conduct governing the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts or agreements supported by the Federal Contribution provided through this Agreement. The code or standards will provide that the Grantee's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subrecipients or contractors. The Grantee may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by state or local law or regulations, such code or standards will provide for penalties, sanctions, or other disciplinary actions for violations by the Grantee's officers, employees, board members, or agents, or by subrecipients or their agents.
 - 1) Personal Conflict of Interest. The Grantee's code or standards must provide that no employee, officer, board member, or agent of the Grantee may participate in the selection, award, or administration of a contract supported by the Federal Contribution if a real or apparent conflict of interest would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
 - 2) Organizational Conflicts of Interest. The Grantee's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed contract, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.
- b. Existing Codes or Standards. This section does not require the Grantee to

implement a new code or standards of conduct where a state statute, or written code or standards of conduct, already effectively covers all of the elements of Section 38(a) of this Attachment.

39. Civil Rights:

The Grantee agrees to comply with all civil rights laws and regulations, in accordance with applicable Federal directives. These include, but are not limited to, the following: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, 42 U.S.C. § 2000d *et seq.*, the DOT Title VI regulations at 49 C.F.R. part 21, which prohibits discrimination on the basis of race, color or national origin; (b) the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.*, the DOT ADA regulations at 49 C.F.R. parts 37-38, section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and the DOT regulations at 49 C.F.R. part 27, which prohibits discrimination on the basis of disability; (c) the Age Discrimination in Employment Act, as amended (42 U.S.C. §§ 621 – 634), and the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 1601-1607), which prohibits discrimination on the basis of age; (d) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 *et seq.*), which prohibits discrimination on the basis of sex; (e) 49 U.S.C. § 306, which prohibits discrimination on the basis of race, color, national origin, or sex in railroad financial assistance programs; (f) any nondiscrimination regulation implemented relating to the above stated statutes; (g) any nondiscrimination Executive Order implemented relating to the above stated statutes; (h) any U.S. DOT Order implemented relating to nondiscrimination, and (i) any other applicable federal laws, regulations, requirements, and guidance prohibiting discrimination.

40. SAM Registration and DUNS Number:

The Grantee is responsible for maintaining an active SAM Registration and Data Universal Numbering System (DUNS) Number and ensuring that all SAM/DUNS information is current throughout the lifecycle of this Agreement, in accordance with 2 C.F.R. § 25.200(a)(2). If SAM/DUNS information becomes inactive, expired, or incorrect, the Grantee will not be able to do any grant-related business with FRA, including the obligation and/or payment of Federal grant funds, and FRA may take appropriate action to terminate this Agreement, in accordance with the terms of this Agreement.

41. Freedom of Information Act:

The FRA is subject to the Freedom of Information Act (FOIA). The Grantee should, therefore, be aware that all applications and related materials submitted by the Grantee related to this Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests.

42. Text Messaging While Driving:

The Grantee is encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the government. *See* Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving,” Oct. 1, 2009 (available at <http://www.gpo.gov/fdsys/pkg/FR-2009-10-06/pdf/E9-24203.pdf>) and DOT Order 3902.10 “Text Messaging While Driving,” Dec. 30, 2009, as implemented by Financial Assistance Policy Letter (No. FAP- 2010-01, Feb. 2, 2010, available at http://www.dot.gov/sites/dot.dev/files/docs/FAPL_2010-01.pdf). This includes, but is not limited to, the Grantee:

- considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
- conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
- encouraging voluntary compliance with the agency’s text messaging policy while off duty.

The Grantee is encouraged to insert the substance of this clause in all assistance awards.

Where a Grantee is located within a state that already has enacted legislation regarding texting while driving, that state’s law controls and the requirements of this section will not apply to or be a part of this Agreement.

43. Trafficking in Persons:

- a. Provisions applicable to a recipient that is a private entity.
 - i. You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.

- ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - a) Associated with performance under this award; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 1200.
- b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
 - 1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - a) Associated with performance under this award; or
 - b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 1200.
- c. Provisions applicable to any recipient.
 - 1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - 2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

- 3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

- 1) “Employee” means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

- 2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- 3) “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.

ii. Includes:

(a) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

(b) A for-profit organization.

- 4) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

- 5) “Recipient” and “subrecipient” include for-profit entities for the purpose of this award term only.

44. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

Grant, cooperative agreement, and loan recipients are prohibited from using government funds to enter into subawards or contracts (or extend or renew subawards or contracts) with entities that use covered technology. See section 889

of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, 132 Stat. 1636, 1917 (Aug. 13, 2018).

PART IV. GOVERNING LAWS AND REGULATIONS

45. Governing Laws and Regulations:

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Grantee acknowledges and agrees that its performance will be governed by and in compliance with this Agreement, 2 C.F.R. §§ 200 – 200.521, including Appendices I – XI, and DOT’s implementing regulations at 2 C.F.R. Part 1201.
- b. Application of Federal, State, and Local Laws and Regulations.
 - 1) Federal Laws and Regulations. The Grantee understands that Federal laws, regulations, policies, and related administrative practices in place on the date this Agreement was executed may be modified from time to time. The Grantee agrees that the most recent of such Federal requirements will govern the administration of this Agreement at any particular time, except if there is sufficient evidence in this Agreement of a contrary intent. Likewise, new Federal laws, regulations, policies and administrative practices may be established after the date the Agreement has been executed and may apply to this Agreement. To achieve compliance with changing federal requirements, the Grantee agrees to include in all subawards and contracts financed with all or part of the Federal Contribution under this Agreement, specific notice that Federal requirements may change and the changed requirements will apply to the Project, as required. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements.
 - 2) State, Territorial Law and Local Law. Except to the extent that a Federal statute or regulation preempts state, territorial, or local law, nothing in this Agreement will require the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable state, territorial, or local law; however, if any of the provisions of this Agreement violate any applicable state, territorial, or local law, or if compliance with the provisions of this Agreement would require the Grantee to violate any applicable state, territorial, or local law, the Grantee agrees to notify the FRA immediately in writing in order that FRA and the Grantee may make appropriate arrangements to proceed with the Project.
 - 3) The Grantee will ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting

discrimination. Further, the Grantee will ensure compliance with all regulations, executive orders, policies, guidance, and requirements as they relate to the application, acceptance, and/or use of funds under this Agreement which may include, but are not limited to, those referenced in this Agreement.

c. Environmental Protection. In addition to complying with the requirements described in Section 23 of this Attachment, the Grantee will ensure that all work conducted under this Agreement complies with all applicable laws, regulations, executive orders, and policies related to environmental protection and historic preservation, including, but not limited to: Section 114 of the Clean Air Act (42 U.S.C. § 7414); and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. § 1318).

Consolidated Rail Infrastructure and Safety Improvements Clauses Attachment 1A

The Grantee agrees to comply with the clauses in this Attachment 1A according to its terms. Consistent with 49 U.S.C. § 22905(e), clauses (c) through (h) do not apply to: 1) commuter rail passenger transportation (as defined in 49 U.S.C. § 24102(3)) operations of a State or local government authority (as those terms are defined in 49 U.S.C. § 5302) or its contractor performing services in connection with commuter rail passenger operations; 2) the Alaska Railroad or its contractors; or 3) Amtrak's access rights to railroad right of way and facilities under current law.

a. Federal Contribution

The Federal share of total Project costs shall not exceed 80 percent.

b. Performance Measures

Grantee agrees to measure and report on the performance measures as stated in Attachment 5.

c. Buy America

In lieu of Section 37 of Attachment 1 to this Agreement, the Grantee agrees to comply with the Buy America provisions set forth in 49 U.S.C. § 22905(a) for the Project.

Additional guidance on compliance with the Buy America provisions is available on FRA's website at: <http://www.fra.dot.gov/Page/P0185>.

d. Operators Deemed Rail Carriers

The Grantee recognizes and agrees that 49 U.S.C. § 22905(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided by this Agreement will be considered a "rail carrier" as defined by 49 U.S.C. § 10102(5), for purposes of Title 49, United States Code, and any other statute that adopts that definition or in which that definition applies, including: the Railroad Retirement Act of 1974 (45 U.S.C. § 231 *et seq.*); the Railway Labor Act (45 U.S.C. § 151 *et seq.*); and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 *et seq.*). The Grantee agrees to reflect this provision in its agreements (if any) with any entity operating rail services over such rail infrastructure.

e. Railroad Agreements. In accordance with 49 U.S.C. § 22905(c)(1):

(1) If Grantee owns the rights-of-way used by the Project funded by this Agreement, then Grantee agrees that: the infrastructure capacity is adequate to accommodate both existing and future freight and passenger rail operations resulting from the Project, as applicable; railroad collective bargaining agreements with railroad employees (including terms

regulating the contracting of work) will remain in full force and effect according to their terms for work performed on the railroad transportation corridor; and the Grantee assures compliance with liability requirements consistent with 49 U.S.C. § 28103.

(2) If Grantee does not own all of the rights-of-way used by the Project funded by this Agreement, then Grantee represents that it has entered into a written agreement with the owner of rights-of-way used by the Project funded by this Agreement, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations resulting from the Project; an assurance by the owner that collective bargaining agreements with railroad employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by such employees on the railroad transportation corridor; and an assurance of compliance with liability requirements consistent with 49 U.S.C. § 28103.

f. Labor Protective Arrangements

In accordance with 49 U.S.C. § 22905(c)(2)(B), if the Project uses rights-of-way owned by a railroad, then Grantee will ensure compliance with the protective arrangements that are equivalent to the protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. § 836, with respect to employees affected by actions taken in connection with the Project financed in whole or in part by this Agreement.

g. Davis-Bacon and Related Acts Provisions

In accordance with 49 U.S.C. § 22905(c)(2)(A), if the Project uses rights-of-way owned by a railroad, then, the Grantee will ensure compliance with the standards of 49 U.S.C. § 24312 with respect to the Project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 U.S.C. § 24308(a). For these purposes, wages in collective bargaining agreements negotiated under the Railway Labor Act are deemed to comply with Davis-Bacon Act requirements.

h. Replacement of Existing Intercity Passenger Rail Service

If an intercity passenger rail transportation provider replaces Amtrak intercity passenger rail service, then such provider must comply with the provisions of 49 U.S.C. § 22905(d).

ATTACHMENT 2

STATEMENT OF WORK

Brightline Trains Florida LLC

South Florida East Coast Rail Corridor Intrusion Prevention Project

Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program FY 2017

I. AUTHORITY

Authorization	Section 11301 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114-94 (2015); 49 U.S.C. 22907
Funding Authority/Appropriation	Consolidated Appropriations Act, 2017, Division K, Title I (Pub. L. 115-31 (May 5, 2017))
Notice of Funding Opportunity	Notice of Funding Opportunity for Consolidated Rail Infrastructure and Safety Improvements [Fiscal Year 2017] 83 Fed. Reg., No. 35 (February 21, 2018))

II. BACKGROUND

This Statement of Work (SOW) accompanies an agreement between the Federal Railroad Administration ("FRA" or "Grantor") and Brightline Trains Florida LLC (Brightline or "Grantee"), hereinafter referred to as the "Agreement." Brightline operates intercity passenger rail service between West Palm Beach and Miami, FL, over 67 miles of the existing Florida East Coast Railway, LLC (FECR) right of way (ROW), (the "Shared Corridor"). The Agreement funds Brightline for the South Florida East Coast Rail Corridor Intrusion Prevention Project ("Project"), which includes the installation of supplemental safety measures at 48 crossings along the Shared Corridor between West Palm Beach and Miami, FL.

The FRA completed an Environmental Assessment (EA) for the then All Aboard Florida (AAF) Passenger Rail Project from West Palm Beach to Miami, FL in 2012 (Phase I). Subsequently, in January 2013, FRA issued a Finding of No Significant Impact (FONSI). The EA and FONSI are available on the FRA website (<https://www.fra.dot.gov/Page/P0590>) for reference. The EA/FONSI provided environmental review and clearance for the development of a new intercity passenger rail service owned and operated by AAF (since rebranded as Brightline), with improvements to the Shared Corridor. Since the implementation of service; however, Brightline has identified the 48 crossings proposed for improvement under this Project to benefit from the supplemental safety improvements described in this SOW. Based on the EA/FONSI for the initial AAF project, Brightline prepared, and on October 17, 2019 FRA approved, a Categorical Exclusion (CE) Worksheet for the improvements proposed in this Project.

In addition to the 2012 EA and 2013 FONSI for the AAF Project (Phase I), FRA and Brightline completed an Environmental Impact Statement (EIS) for the AAF Intercity Passenger Rail Project from Orlando to Miami, FL Project in 2015 with a Record of Decision (ROD) in 2017 (Phase II). FRA approved the CE for the improvements proposed for construction under this Project in 2019; however, the CE does not supersede the environmental analyses and decisions in the 2012 EA and 2013 FONSI or 2015 EIS and 2017 ROD, and the mitigation measures required for grade crossings specified in the Phase I and Phase II documents remain in effect.

On February 21, 2018, FRA issued a Notice of Funding Opportunity (NOFO) in the Federal Register soliciting applications under the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program for Federal fiscal year (FY) 2017. On June 21, 2018, Brightline submitted an application requesting \$2,373,441 under Track 3 of the FY 2017 CRISI Program for the final design and construction of the Project. FRA selected Brightline to receive the full award of \$2,373,441 in FY 2017 CRISI funding toward a \$3,301,447 Project (including a proposed \$928,006 Grantee match).

The scope of this Project includes rail-highway safety improvements at all 48 crossings proposed in Brightline's application for funding; however, the specific safety improvements listed in this SOW differ from the application at certain locations. Brightline requested this scope modification after completion of additional assessment of the physical and dynamic conditions at each location as well as preparation of a revised cost estimate. A detailed list of improvements to be performed in this Project is provided in Section V. of this SOW. FRA and Brightline have mutually agreed on the modified scope with the expectation that it will deliver the intended benefit to improve safety at highway-rail grade crossings along the Shared Corridor. Through the Agreement accompanying this SOW, FRA has awarded \$2,373,441 in FY 2017 CRISI funding toward a \$3,301,447 "FRA Federally funded Project" with at \$928,006 non-Federal match provided by Brightline. Brightline will provide up to \$2,031,039 in "Supplemental Funding" to complete the Project, which may include other Federal resources, such as the Federal Highway Administration (FHWA); therefore, the Grantee will administer those funds separately from those included in the FRA Federal Project.

III. OBJECTIVE

There are 178 at-grade crossings along the 67-mile Shared Corridor from just north of the West Palm Beach station to downtown Miami. All crossings include a combination of active warning devices (cantilever signal arms, flashing lights, bells and gates). The initial AAF project included improvements to all 178 of the crossings to accommodate the upgrade of the former primarily single-tracked FECR to a primarily double-tracked route to FRA Class-IV standards (supporting 79 mph intercity passenger rail service). Since the implementation of Brightline service, motorists and pedestrians have continued to ignore warnings of trains approaching grade crossings. Most of the incidents occur when a vehicle or pedestrian intentionally drives or walks around crossing gates, violating posted warnings, resulting in railroad-related injuries or fatalities. Brightline continues to assess hazards at all grade crossings along the corridor and has identified 48 crossings for improvements in this Project. The objective of this Project is to reduce or eliminate hazards to vehicles and pedestrians at grade crossings along the Shared

Corridor, minimizing the risk of injury or fatality to the public and Brightline and FECR employees or customers.

IV. PROJECT LOCATION

The Project is located along the 67-mile Brightline and FECR Shared Corridor, specifically between milepost (MP) 300.9 at Belvedere Road in West Palm Beach, FL and MP 364.75 at NW 14th Street in Miami, FL. The Project will improve safety at 48 at-grade crossings along and within the FECR-owned railroad right-of-way.

V. DESCRIPTION OF WORK

A. Project Description

The Project includes the design and construction of improvements at 48 grade crossings along the Shared Corridor with a combination of traffic center-line delineators, exit gates, or active message signs along with traffic lane edge marking/stripping with flexible delineators at each location. The scope of the Project includes the design and construction of the improvements described below and as listed in Table 1 (Crossing Locations and Improvements) by milepost (MP) and U.S. Department of Transportation (USDOT) Crossing Inventory Number.

- Install traffic channelization devices (center-line delineators) at 9 crossings.
- Install traffic channelization devices (non-traversable raised median) at 1 crossing.
- Install exit gate improvements at 7 crossings.
- Install active message signs at 9 crossings to include digital messaging and “Moving Eyes” as pedestrian and vehicular warnings. The dynamic or active message sign is interconnected with the railroad signal system and remains dark until it receives an alert that a train is approaching. This triggers the active message sign to display its warning messages.
- Install lane edge marking/stripping with flexible delineators as an overlay safety measure at all 48 crossings, 22 of which will receive only this improvement, and 26 of which will receive this improvement in addition to safety measures described above.

Table 1: Crossing Locations and Improvements

Location: (Crossing No., Milepost, Street Name, City)	Improvement
[272437H] MP 300.9 - Belvedere Rd., West Palm Beach	Active Message Signs & Lane Edge Markings
[272454Y] MP 304.35 - 22nd Ave., Lake Worth (also listed as Worthmore Dr.)	Lane Edge Markings Only
[272458B] MP 305.24 - 10th Ave. N., Lake Worth	Raised Median & Lane Edge Markings
[272467A] MP 307.07 - 12th Ave. S., Lake Worth	Active Message Signs & Lane Edge Markings
[272471P] MP 308.31 - W. Ocean Ave., Lantana	Lane Edge Markings Only
[272473D] MP 308.87 - Central Blvd., Lantana	Active Message Signs & Lane Edge Markings
[272476Y] MP 310.78 - NE 22nd Ave., Lantana	Lane Edge Markings Only
[272485X] MP 313.67 - SE 23rd Ave., Boynton Beach	Active Message Signs & Lane Edge Markings

[272489A] MP 316.31 - NE 4th St., Delray Beach	Exit Gates & Lane Edge Markings
[272869G] MP 316.96 - SE 1st St., Delray Beach	Lane Edge Markings Only
[272498Y] MP 319.36 - Lindell Blvd., Delray Beach	Lane Edge Markings Only
[272501E] MP 322.1 - Spanish River Blvd., Boca Raton	Lane Edge Markings Only
[272502L] MP 322.79 - NW 28th St., Boca Raton	Lane Edge Markings Only
[272510D] MP 325.23 - El Camino Real, Boca Raton	Partial Exit Gates (Southeast Quadrant) & Lane Edge Markings
[272511K] MP 326.81 - NE 2nd St., Deerfield Beach (also listed as Eller St.)	Exit Gates & Lane Edge Markings
[272514F] MP 327.95 - SW 10th St., Deerfield Beach	Exit Gates & Lane Edge Markings
[272516U] MP 329.00 - NE 48th St., Ft. Lauderdale (also listed as Pompano Beach)	Exit Gates & Lane Edge Markings
[272518H] MP 330.31 - NE 33rd St., Ft. Lauderdale (also listed as Pompano Beach)	Lane Edge Markings Only
[272519P] MP 331.1 - Copans Rd., Pompano Beach	Partial Exit Gates (Northwest Quadrant) & Lane Edge Markings
[272528N] MP 332.77 - NE 6th St., Pompano Beach	Active Message Signs & Lane Edge Markings
[272531W] MP 332.97 - NE 3rd St., Pompano Beach (also listed as Hammondville Rd.)	Center-Line Delineators & Lane Edge Markings
[272534S] MP 333.31 - SW 2nd St., Pompano Beach	Lane Edge Markings Only
[272535Y] MP 333.79 - SW 6th St., Pompano Beach	Center-Line Delineators & Lane Edge Markings
[272536F] MP 335.13 - Cypress Creek Rd., Ft. Lauderdale	Active Message Signs & Lane Edge Markings
[272870B] MP 335.63 - NE 56th St., Oakland Park	Center-Line Delineators & Lane Edge Markings
[272538U] MP 336.53 - NE 45th St., Oakland Park	Lane Edge Markings Only
[272547T] MP 338.8 - NE 17th Ct., Ft. Lauderdale	Lane Edge Markings Only
[272548A] MP 339.38 - NE 13th St., Ft. Lauderdale	Center-Line Delineators & Lane Edge Markings
[272559M] MP 341.56 - SW 6th St., Ft. Lauderdale	Center-Line Delineators & Lane Edge Markings
[272560G] MP 341.67 - SW 7th St., Ft. Lauderdale	Active Message Signs & Lane Edge Markings
[272572B] MP 345.44 - Old Griffin Rd., Dania (also listed as NW 4 th Ave.)	Center-Line Delineators & Lane Edge Markings
[272576D] MP 347.08 - Dixie Highway, Dania	Active Message Signs & Lane Edge Markings
[272578S] MP 347.75 - Taft St., Hollywood	Center-Line Delineators & Lane Edge Markings
[272582G] MP 348.07 - Garfield St., Hollywood	Lane Edge Markings Only
[272584V] MP 348.27 - Johnson St., Hollywood	Center-Line Delineators & Lane Edge Markings
[272868A] MP 348.71 - Tyler St., Hollywood	Lane Edge Markings Only
[272587R] MP 348.84 - Harrison St., Hollywood	Active Message Signs & Lane Edge Markings
[272589E] MP 349.29 - Washington St., Hollywood	Lane Edge Markings Only
[272591F] MP 350.3 - NW 3rd St., Hallandale	Lane Edge Markings Only
[272593U] MP 350.81 - SW 3rd St., Hallandale	Lane Edge Markings Only
[272595H] MP 351.32 - NE 215th St., Miami	Lane Edge Markings Only
[272603X] MP 354.09 - NE 172nd St., North Miami Beach	Lane Edge Markings Only
[272607A] MP 355.82 - NE 146th St., North Miami	Exit Gates & Lane Edge Markings
[272619U] MP 360.07 - NE 87th St., El Portal	Lane Edge Markings Only
[272622C] MP 361.12 - NE 71st St., Miami (also listed as 4th Ave.)	Lane Edge Markings Only
[272636K] MP 364.23 - NE 20th St., Miami	Lane Edge Markings Only
[272637S] MP 364.32 - NE 19th St., Miami (also listed as N. Miami Ave.)	Center-Line Delineators & Lane Edge Markings
[272640A] MP 364.75 - NW 14th St., Miami (also listed as Tornado Way)	Lane Edge Markings Only

B. Project Delivery

This SOW defines the Project in four tasks, including: Task 1, Detailed Project Work Plan (PWP); Task 2, Final Design; Task 3, Construction; and Task 4, Project Management.

Task 1: Detailed PWP, Budget, and Schedule

This SOW, which is included as Attachment 2 to the Agreement, accompanied by an Approved Project Schedule in Attachment 3 and an Approved Project Budget in Attachment 4, defines the baseline commitments necessary to complete the Project. Consistent with this SOW and the Approved Project Schedule and Budget, Brightline shall prepare a Detailed Project Work Plan (PWP) to further describe the activities and steps necessary to complete the Project.

The Detailed PWP will describe, in detail, the activities and steps necessary to complete the tasks outlined in this SOW. The Detailed PWP will also include information about the project management approach (including team organization, team decision-making, roles and responsibilities and interaction with FRA), as well as address quality assurance and quality control procedures. In addition, the Detailed PWP will include the Project Schedule (with Grantee and agency review durations) and a detailed Project Budget. Similarly, agreements governing the construction, operation and maintenance of the improvements constructed in the Project should also be included. The Detailed PWP, Budget, and Schedule will be reviewed and approved by the FRA.

Additionally, the Detailed PWP shall include a list of all potential impacts identified in the EA/FONSI for the initial AAF project and the CE Worksheet for this Project that are applicable to the Project, and describe the process to comply with the commitments or implement the mitigation measures associated with those impacts. The Detailed PWP shall also include a list of any permits required to complete the Project, and describe the process to coordinate with the appropriate regulatory agencies and obtain such permits.

The Grantee acknowledges that work on subsequent tasks will not commence until the Detailed PWP, Budget, and Schedule has been completed, submitted to FRA, and the Grantee has received approval in writing from FRA, unless such work is permitted by pre-award authority provided by FRA.

Task 1 Deliverables:

- Detailed PWP
- Detailed Project Schedule
(Approved Project Schedule, Attachment 3, revised as applicable)
- Detailed Project Budget
(Approved Project Budget, Attachment 4, revised as applicable)
- Project Agreements (if applicable)

Task 2: Final Design

As part of the construction of the initial AAF project and subsequent implementation of intercity passenger rail service on the Shared Corridor, Brightline constructed improvements to the

existing at-grade crossings to accommodate the upgrade of the former primarily single-tracked FECR to a primarily double-tracked route to FRA Class-IV standards (supporting 79 mph intercity passenger rail service). In support of the development of this Project, Brightline provided FRA with the design documents reflecting the existing conditions at each of the 48 crossings proposed for additional improvements under this Project, (“Baseline Design”). The supporting designs for each crossing are unique, and have been revised over multiple years. For most crossings, the baseline designs consist of a “Conformed” set dated May 26, 2015, but many include revisions through 2018 or later. In general, each crossing design set consists of one or more sheets from each of the components listed below.

1. Roadway Plans
2. Roadway Profile
3. Signing and Pavement Marking Plans
4. Crossing Layout (Location of crossing warning devices and circuitry.)

For Final Design, Brightline shall prepare either revisions to the Baseline Design or new plan inserts to supplement the Baseline Design package for the five elements listed above, as applicable at each crossing. Although the improvements proposed in the Project (Traffic Center-line Delineators, Non-Traversable Medians, Exit Gates, Active Message Signs and Lane Edge Marking/Striping with Flexible Delineators) have common characteristics, the dynamic and physical conditions are unique at each crossing. The Final Design may include a “Typical Section” for each of the improvements proposed in the Project, but will also require revisions to or new plan inserts for each individual crossing as described in the subtasks below.

Subtask 2.1: Traffic Channelization with Center-Line Delineators and Lane Edge Marking/Striping with Flexible Delineators

Prepare final design to represent the improvements proposed for the 9 grade crossings to receive traffic channelization with center-line delineators and lane edge marking/striping with flexible delineators, including crossings: 272531W, 272535Y, 272870B, 272548A, 272559M, 272572B, 272578S, 272584V, 272637S.

- a. Roadway Plan and Profile: Prepare either revisions to the existing roadway plan and profile (Volume 3, RD-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the traffic channelization with center-line delineators (and lane edge marking/striping with flexible delineators) that will be installed at each of the nine crossings. The final design for the roadway plan and profile shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the traffic channelization with center-line delineators.
- b. Signing and Pavement Marking Plans: Prepare either revisions to the existing signing and pavement marking plans (Volume 4, SP-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements and surface modifications associated with the traffic channelization with center-line delineators (and lane edge marking/striping with flexible delineators) that will be installed at each of the nine crossings.

- c. Crossing Layout (Optional): As necessary, prepare either revisions to the existing crossing layout (Volume 5, CL-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the traffic channelization with center-line delineators (and lane edge marking/stripping with flexible delineators) that will be installed at each of the nine crossings. The final design for the crossing layout shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the traffic channelization with center-line delineators.
- d. Maintenance of Traffic Plan: Prepare Maintenance of Traffic (MOT) Plan to provide Temporary Traffic Control (TTC) during the construction of the improvements for the nine grade crossings to receive traffic channelization with center-line delineators and lane edge marking/stripping with flexible delineators.

Subtask 2.2: Traffic Channelization with Raised Median and Lane Edge Marking/Stripping with Flexible Delineators

Prepare final design to represent the improvements proposed for the one grade crossings to receive traffic channelization with a non-traversable raised median on the western approach to the crossing: 272458B – 10th Ave. N., Lake Worth, FL.

- a. Roadway Plan and Profile: Prepare either revisions to the existing roadway plan and profile (Volume 3, RD-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the traffic channelization with a 60-foot non-traversable raised median (and lane edge marking/stripping with flexible delineators) that will be installed at this crossing. The final design for the roadway plan and profile shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the traffic channelization with center-line delineators.
- b. Signing and Pavement Marking Plans: Prepare either revisions to the existing signing and pavement marking plans (Volume 4, SP-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements and surface modifications associated with the traffic channelization with a 60-foot non-traversable raised median (and lane edge marking/stripping with flexible delineators) that will be installed at this crossing.
- c. Crossing Layout (Optional): As necessary, prepare either revisions to the existing crossing layout (Volume 5, CL-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the traffic channelization with center-line delineators (and lane edge marking/stripping with flexible delineators) that will be installed at each of the nine crossings. The final design for the crossing layout shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements

required to support the installation of the traffic channelization with center-line delineators.

- d. Maintenance of Traffic Plan: Prepare Maintenance of Traffic (MOT) Plan to provide Temporary Traffic Control (TTC) during the construction of the improvements for the nine grade crossings to receive traffic channelization with center-line delineators and lane edge marking/stripping with flexible delineators.

Subtask 2.3: Exit Gates with Lane Edge Marking/Striping with Flexible Delineators

Prepare final design to represent the improvements proposed for the seven grade crossings to receive exit gates with lane edge marking/stripping with flexible delineators. Five of the XXX grade crossings will receive exit gates in both exit quadrants, as follows: 272489A, 272511K, 272514F, 272516U, 272607A. Two of the grade crossings will receive exit gates in only one quadrant, including 272510D (Southeast Quadrant) and 272519P (Northwest Quadrant).

- a. Roadway Plan and Profile: Prepare either revisions to the existing roadway plan and profile (Volume 3, RD-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the exit gates (and lane edge marking/stripping with flexible delineators) that will be installed at each of the seven crossings. The final design for the roadway plan and profile shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the exit gates and associated circuitry and power supply connections.
- b. Signing and Pavement Marking Plans: Prepare either revisions to the existing signing and pavement marking plans (Volume 4, SP-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements and surface modifications associated with the exit gates (and lane edge marking/stripping with flexible delineators) that will be installed at each of the seven crossings.
- c. Crossing Layout: Prepare either revisions to the existing crossing layout (Volume 5, CL-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical and circuitry elements associated with the exit gates that will be installed at each of the four crossings. The Crossing Layout revision or insert shall include, at a minimum, the location of the exit gates, crossing circuitry interface, location of power supply and the implementation of new or updated motion/occupancy detection technology. For crossings with adjacent traffic signals, the Crossing Layout shall include the implementation of new or validation of interconnection with the existing traffic signal interface. The final design for the crossing layout shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the exit gates and associated circuitry and power supply connections.
- d. Maintenance of Traffic Plan: Prepare Maintenance of Traffic (MOT) Plan to provide Temporary Traffic Control (TTC) during the construction of the improvements for the

nine grade crossings to receive exit gates (and lane edge marking/striping with flexible delineators).

Notes:

- a. Exit Gates: For locations where exit gates are to be installed under the Project, utilizing the vehicular exiting gate as a pedestrian function for sidewalks is not recommended. Separate pedestrian gates should be installed at those respective quadrants, and lowered simultaneously with the entrance gates.
- b. Pedestrian Gates: For locations where pedestrian gates are to be affected or modified by the Project, consideration should be given to the installation of pedestrian swing gates. Swing gates provide pedestrians a means of egress to exit the crossing. In order to increase the effectiveness of pedestrian gates, the installation of fencing or other means of channelization could also be considered to deter pedestrians from circumventing the gates.

Subtask 2.4: Active Message Signs with Lane Edge Marking/Striping with Flexible Delineators

Prepare final design to represent the improvements proposed for the 9 grade crossings to receive active message signs with lane edge marking/striping with flexible delineators, including crossings: 272437H, 272467A, 272473D, 272485X, 272528N, 272536F, 272560G, 272576D, 272587R.

- a. Roadway Plan and Profile: Prepare either revisions to the existing roadway plan and profile (Volume 3, RD-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements associated with the active message signs (and lane edge marking/striping with flexible delineators) that will be installed at each of the 9 crossings. The final design for the roadway plan and profile shall also include the identification of existing and proposed (if relocated) public and private utilities and any utility easements required to support the installation of the active message signs and associated circuitry and power supply connections.
- b. Signing and Pavement Marking Plans: Prepare either revisions to the existing signing and pavement marking plans (Volume 4, SP-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements and surface modifications associated with the active message signs (and lane edge marking/striping with flexible delineators) that will be installed at each of the 9 crossings.
- c. Crossing Layout: Prepare either revisions to the existing crossing layout (Volume 5, CL-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical and circuitry elements associated with the active message signs that will be installed at each of the 9 crossings. The Crossing Layout revision or insert shall include, at a minimum, the location of the active message signs, crossing circuitry interface and location of power supply. The final design for the crossing layout shall also include the identification of existing and proposed (if relocated)

public and private utilities and any utility easements required to support the installation of the active message signs and associated circuitry and power supply connections.

- d. Maintenance of Traffic Plan: Prepare Maintenance of Traffic (MOT) Plan to provide Temporary Traffic Control (TTC) during the construction of the improvements for the 9 grade crossings to receive active message signs (and lane edge marking/stripping with flexible delineators).

Notes:

- a. Active Message Signs: FRA acknowledges that Active Message Signs include an interface with the grade crossing signal control system, which provides a supplemental overlay for pedestrian or motorist awareness, but are not considered a “vital” element of the grade crossing signal system.

Subtask 2.5: Lane Edge Marking/Striping with Flexible Delineators

Prepare final design to represent the improvements proposed for the 22 grade crossings to receive lane edge marking/stripping with flexible delineators only, including crossings: 272454Y, 272471P, 272476Y, 272869G, 272498Y, 272501E, 272502L, 272510D, 272514F, 272516U, 272518H, 272519P, 272534S, 272538U, 272547T, 272582G, 272868A, 272589E, 272591F, 272593U, 272595H, 272603X, 272619U, 272622C, 272636K, 272640A.

- a. Signing and Pavement Marking Plans: Prepare either revisions to the existing signing and pavement marking plans (Volume 4, SP-#, Rev. #) or a new insert for inclusion in the Baseline Design package showing the location of all new or modified physical elements and surface modifications associated with the lane edge marking/stripping with flexible delineators that will be installed at each of the 22 crossings.
- b. Maintenance of Traffic Plan: Prepare Maintenance of Traffic (MOT) Plan to provide Temporary Traffic Control (TTC) during the construction of the improvements for the 22 grade crossings to receive lane edge marking/stripping with flexible delineators only.
- c. (Optional) Typical Section: Brightline may prepare a “typical section” for the Lane Edge Marking/Striping with Flexible Delineators for FRA review and approval prior to performing “field design” by a construction contractor on site. After installation of the Lane Edge Marking/Striping with Flexible Delineators at all 48 crossings, Brightline (or Brightline’s contractor) shall prepare and include Signing and Pavement Marking Plans showing the final configuration/layout for inclusion in the plan set for each respective crossing.

Subtask 2.6: Detailed Cost Estimate

The Final Design shall include a detailed engineering cost estimate for the materials and labor required to construct the Project, presented in the Standard Cost Category (SCC) format as defined in FRA’s Capital Cost Estimating Guidance, August 30, 2016 (<https://www.fra.dot.gov/eLib/Details/L17452>); and Monitoring Procedure 33, SCC Worksheets reference (<https://www.fra.dot.gov/eLib/details/L16055>). The detailed engineering cost estimate

shall also include any costs required for utility relocation or connection, ROW acquisition or easement, traffic control, railroad flagging, construction management, project management or other associated costs that Brightline may require to construct the Project.

Upon receipt and review of the Final Design, FRA will authorize Brightline to proceed with construction activities in Task 3 of this SOW. FRA authorization to proceed with construction, ROW acquisition or utility relocation will be subject to confirmation from Brightline that the Project can be completed within the scope, schedule, budget, and terms and conditions of the Agreement and as described in the Detailed PWP prepared in Task 1.

Task 2 Deliverables:

- Subtask 2.1: Traffic Channelization with Center-Line Delineators and Lane Edge Marking/Striping with Flexible Delineators (9 crossings)
 - a. Roadway Plan and Profile – revision or insert
 - b. Signing and Pavement Marking Plans – revision or insert
 - c. Crossing Layout (Optional) – revision or insert
 - d. Maintenance of Traffic Plan
- Subtask 2.2: Traffic Channelization with Non-Traversable Raised Median and Lane Edge Marking/Striping with Flexible Delineators (1 crossing)
 - a. Roadway Plan and Profile – revision or insert
 - b. Signing and Pavement Marking Plans – revision or insert
 - c. Crossing Layout (Optional) – revision or insert
 - d. Maintenance of Traffic Plan
- Subtask 2.3: Exit Gates with Lane Edge Marking/Striping with Flexible Delineators (7 crossings)
 - a. Roadway Plan and Profile – revision or insert
 - b. Signing and Pavement Marking Plans – revision or insert
 - c. Crossing Layout – revision or insert
 - d. Maintenance of Traffic Plan
- Subtask 2.4: Active Message Signs with Lane Edge Marking/Striping with Flexible Delineators (9 crossings)
 - a. Roadway Plan and Profile – revision or insert
 - b. Signing and Pavement Marking Plans – revision or insert
 - c. Crossing Layout – revision or insert
 - d. Maintenance of Traffic Plan
- Subtask 2.5: Lane Edge Marking/Striping with Flexible Delineators Only (22 crossings)
 - a. Signing and Pavement Marking Plans – revision or insert
 - b. Maintenance of Traffic Plan
- Subtask 2.6: Detailed Cost Estimate
 - a. Detailed Engineering Cost Estimate

Task 3: Construction

Upon receipt of FRA approval of the Final Design prepared in Task 2, Brightline shall construct the rail-highway safety improvements in the Project as described in this SOW. Brightline shall complete the Project in accordance with the environmental review as defined in the EA/FONSI for the initial AAF project or the CE prepared for this Project, as applicable. Brightline shall deliver the project using the method defined in the most current approved Detailed PWP prepared in Task 1 and as presented in the Final Design prepared in Task 2.

USDOT Crossing Inventory:

In 2015, FRA published a Final Rule in the Federal Register (80 Fed. Reg. No. 3 (January 6, 2015)) defining National Highway-Rail Crossing Inventory Reporting Requirements (<https://www.regulations.gov/contentStreamer?documentId=FRA-2011-0007-0040&contentType=pdf>). This rule amended Chapter 49 of the Code of Federal Regulations (CFR), “Part 234 to require railroads that operate one or more trains through highway-rail or pathway crossings (i.e., “operating railroads”) to submit certain information to the Crossing Inventory about the highway-rail and pathway crossings through which they operate.” Additional information on the National Grade Crossing Inventory Reporting Regulations is available on the FRA website at (<https://www.fra.dot.gov/Page/P0856>). The USDOT Crossing Inventory Form (OMB No. 2130-0017) (<https://www.fra.dot.gov/eLib/Details/L16197>) as well as the FRA Guide for Preparing USDOT Crossing Inventory Forms, Rev. 2, July 19, 2016 (<https://www.fra.dot.gov/Page/P0856>).

Pursuant to this rule, Brightline shall update the USDOT Crossing Inventory within three months of completion of the installation of the improvements installed under this Project.

Task 3 Deliverables:

The primary deliverables for the Project include the completion of construction and availability of the facilities for use. To document the completion of construction, Brightline will provide FRA with copies of updated Crossing Inventory Forms for each of the 48 crossings improved through the Project. Although not specific deliverables under Task 3, FRA reserves the right to request procurement documentation and inspect the progress of construction to ensure compliance with the terms and conditions of the Agreement.

- Deliverables
 - USDOT Crossing Inventory Update
- Procurement Materials (Upon Request)
 - Final Design (Bid Set)
 - Contractor Proposal
 - Executed Contract
 - Notice to Proceed
- Project Delivery Materials (Upon Request)
 - Contractor Buy America Certificate of Compliance
 - Contractor Safety Plan

- Construction Cost Estimate

Task 4: Project Management

The Grantee may expend funds under this Agreement for Project Management (PM) activities related to the administration and delivery of the Project. Eligible activities under this Task include: document preparation (scope, schedule, budget updates), contract procurement, support for FRA inquiries on grant compliance oversight or monitoring, and applicable FRA reporting requirements defined in this Agreement. Specifically, per Section 16 of this Agreement, the Grantee shall submit a Final Performance Report within 90 days of completion of the Project.

Task 4 Deliverables:

- Final Performance Report

VI. PROJECT COORDINATION

Brightline proposes to use the same management and organization that recently completed the successful installation of the West Palm Beach to Miami double-tracking and signal control system upgrade. This work, completed in early 2018, included over 164 full grade crossing replacements: civil, roadway approach, traffic markings, track, signal equipment, and gate installation at each location. This is a highly capable and proven team that has successfully performed exactly this type of work and the same individuals and resources are available to implement this grant work. Brightline has coordinated closely with multiple entities during the last three years during implementation of the permitting, design and construction of the double tracking and signal system upgrade from West Palm Beach to Miami. As such, Brightline enjoys a close working relationship with the key entities who will be involved with this work. There are three main public entities.

Brightline will perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including:

FRA: Brightline has coordinated closely with FRA for the last three years of construction work in this corridor. This is an integral part of the Brightline safety program. Brightline will integrate any required FRA involvement into our Work Plan process. Included with FRA coordination is the monthly reporting and accounting for Progress of Work, Schedule, and Budget control. This will include reporting on the execution of the work from the previous month, forecast of activities for the upcoming month, performance on budget and schedule, and identification of key issues and if necessary, recovery plans.

FECR/Brightline Trains Florida LLC: Brightline and FECR were affiliated companies until June 30, 2017, at which time FECR was sold to Grupo Mexico. FECR owns the fee simple title in the Shared Corridor and owns certain components of the railroad infrastructure within the Shared Corridor. Brightline owns the permanent, perpetual and exclusive rights, privileges and easements on, over and across the Shared Corridor for passenger rail purposes. Brightline also owns certain components of the railroad infrastructure that Brightline has installed. These rights

of use and ownership were granted by FECR to Brightline in a Second Amended and Restated Grant of Passenger Service Easements (Miami to West Palm Beach) dated June 13, 2014. Brightline has the permanent, perpetual and exclusive rights, privileges and easements for passenger railroad purposes being provided by Brightline through the project and the system, on, over and across all of the real property included in FECR's main right-of-way located within the State of Florida. Brightline's construction team has clear and established communication channels with the operations teams of both FECR and Brightline. In addition, Florida Dispatch Company has been established to manage all train dispatching for both companies. All RWP activities will be coordinated with both companies and Dispatch in advance of the work.

Local Municipalities: Brightline has coordinated with local municipalities along the corridor for seven years. This has been through an organized approach led by the MPO's of the three counties (Palm Beach, Broward, and Miami-Dade) who have been excellent partners in the implementation of Quiet Zones and the grade crossing diagnostic reviews. Brightline will continue this level coordination throughout this crossing safety enhancement program.

VII. PROJECT MANAGEMENT

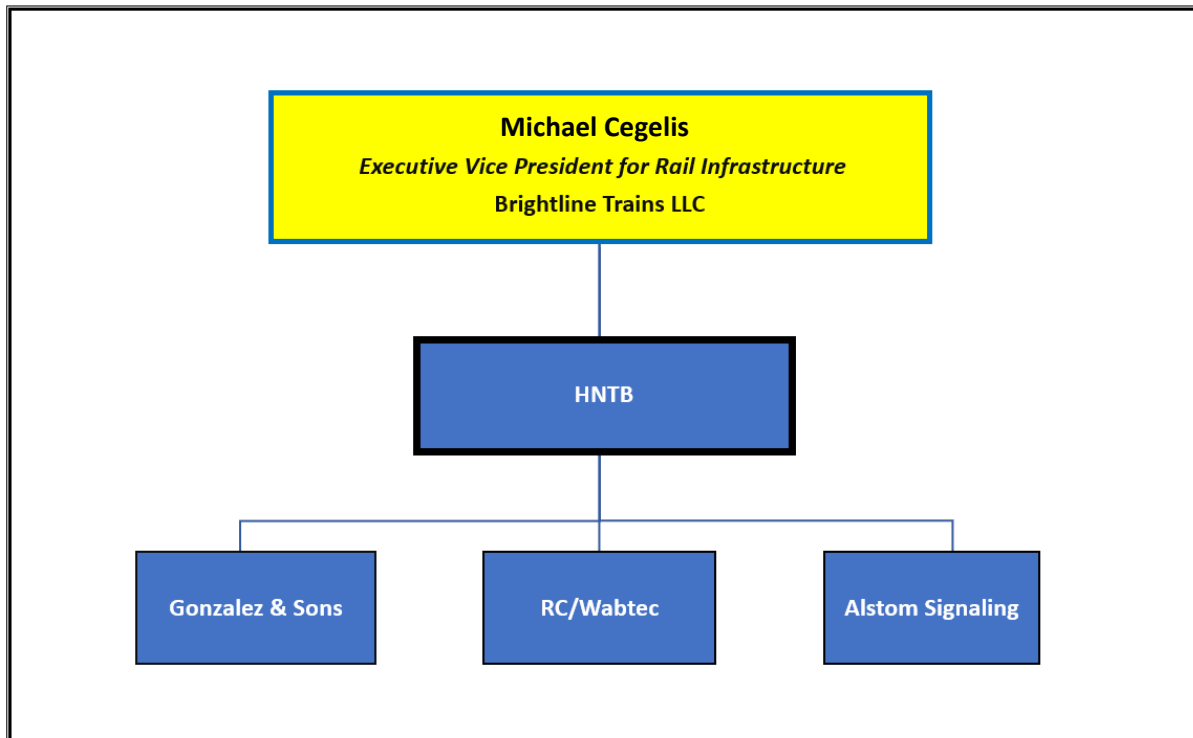
With more than a century of combined experience in Florida, and a business model built on the concept of stability and innovation, Brightline has assembled an experienced team of business, operations, finance, and marketing leaders to develop, operate and maintain the Project. Brightline's team of key personnel has the expertise needed to resolve local, state, and federal regulatory issues that may exist, to restore a passenger rail system to the FECR corridor without conflicts with existing utilities and to operate, maintain and market that system efficiently and effectively. Brightline has also worked to identify a team of consultants ready to provide expertise in the areas that Brightline may need to supplement its in-house resources. Further, Brightline has developed an organizational structure and management plan to undertake the Project. Through these plans, Brightline has developed an approach to provide safe express intercity passenger rail service between West Palm Beach and Miami that will have a transformational effect on the State of Florida and is a model for rail development in the nation. Management of the overall project will be a combination of in-house Brightline personnel along with program management services provided by HNTB in a manner similar to the previous Brightline contracts and augmented as necessary by sub-consultants.

Management team: Led by Michael Cegelis, PE, EVP for Rail Infrastructure, and supported by HNTB Corporation that serves as their Program Manager and extension of staff. Key individuals from HNTB that will support this work include John Blaine, Construction Manager, who oversaw the installation of the West Palm Beach to Miami double tracking; David McGee, who oversaw the signaling system installation and cutover work; and Wayne Blalock, Safety Manager.

Contractors: the installation work will be performed by the same contractors who successfully performed the WPB to Miami work. These are as follows:

- Gonzalez & Sons, Inc.: responsible for all grade crossing track, civil, roadway and approach work;
- RC/Wabtec: responsible for signal systems installation
- Alstom Signaling: provided signal system products and performed all final testing and cutovers of the signals system.

Project Management Organization Chart:



Brightline will:

- Participate in a project kickoff meeting with FRA
- Complete necessary steps to hire a qualified vendors and consultants to perform required Project work
- Hold regularly scheduled Project meetings with FRA
- Inspect and approve work as it is completed
- Review and approve invoices as appropriate for completed work
- Perform Project close-out audit to ensure contractual compliance and issue close-out report
- Submit to FRA all required Project deliverables and documentation on-time and according to schedule, including periodic receipts and invoices
- Comply with all FRA Project reporting requirements, including, but not limited to:
 - a. Status of project by task breakdown and percent complete
 - b. Changes and reason for changes to the Project's scope, schedule and/or budget
 - c. in and updated versions of the Detailed PWP, Budget, and Schedule
 - d. Description of unanticipated problems and any resolution since the immediately preceding progress report

- e. Update the U.S. DOT Crossing Inventory Form
- f. System signaling testing in coordination with FRA Region 3
- g. Summary of work scheduled for the next progress period
- h. Updated Project schedule
- Ensure compliance with the Terms and Conditions of the Agreement (Attachment 1)
- Coordinate with FRA in advance of potential changes to the Agreement that may require written approval or modification to the Agreement

ATTACHMENT 3

DELIVERABLES AND APPROVED PROJECT SCHEDULE

Brightline Trains Florida LLC

South Florida East Coast Rail Corridor Intrusion Prevention Project

Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program FY 2017

I. DELIVERABLES AND APPROVED PROJECT SCHEDULE

The Project Performance Period and Federal Funding Period, as defined in Attachment 1 to the cooperative agreement, for all work in the Project will be approximately 24 months from September 1, 2020 to August 31, 2022. Unless otherwise approved, requests for extensions of the Project Performance Period or Federal Funding Period must be submitted not later than 90 days before the end of the Project Performance Period or Federal Funding Period, consistent with Section 5(b) of Attachment 1.

Deliverables

Brightline has defined the delivery of the Project in four tasks, including: Task 1, Detailed Project Work Plan; Task 2, Final Design; Task 3, Construction; and Task 4, Project Management. The statement of work (SOW) in Attachment 2 to this cooperative agreement describes the scope of the tasks to be performed under the Project and lists the deliverables required under each respective task. Deliverables are documents that will be prepared by Brightline and submitted to FRA for review and acceptance or approval as a requirement of the cooperative agreement.

The deliverables associated with this Agreement are listed below. Brightline must complete these deliverables to FRA's satisfaction to be authorized for funding reimbursement and for the Project to be considered complete.

<u>Task #</u>	<u>Deliverable Name</u>	<u>Due/Completion Date</u>
1	Detailed Project Work Plan (PWP)	Dec. 31, 2020
1	Detailed Project Schedule (Approved Project Schedule, Attachment 3, revised as applicable)	Oct. 31, 2020
1	Detailed Project Budget (Approved Project Budget, Attachment 4, revised as applicable)	Oct. 31, 2020
1	Project Agreements (if applicable)	Dec. 31, 2020
2	Final Design	Dec. 31, 2020
<u>2.1</u>	<u>Traffic Delineators with Lane Edge Marking/Striping (9 Crossings)</u>	Nov. 30, 2020
2.1(a)	Roadway Plan and Profile – Revisions or Inserts	
2.1(b)	Signing and Pavement Marking Plans – Revisions or Inserts	
2.1(c)	Crossing Layout (Optional) – Revisions or Inserts	
2.1(d)	Maintenance of Traffic Plan	
2.2	Non-Traversable Raised Median with Lane Edge Marking/Striping (9 Crossings)	Nov. 30, 2020

ATTACHMENT 3

2.2(a)	Roadway Plan and Profile – Revisions or Inserts	
2.2(b)	Signing and Pavement Marking Plans – Revisions or Inserts	
2.2(c)	Crossing Layout (Optional) – Revisions or Inserts	
2.2(d)	Maintenance of Traffic Plan	
<u>2.3</u>	<u>Exit Gates with Lane Edge Marking/Striping (7 Crossings; 5 Full, 2 Partial)</u>	Dec. 31, 2020
2.3(a)	Roadway Plan and Profile – Revisions or Inserts	
2.3(b)	Signing and Pavement Marking Plans – Revisions or Inserts	
2.3(c)	Crossing Layout – Revisions or Inserts	
2.3(d)	Maintenance of Traffic Plan	Dec. 31, 2020
<u>2.4</u>	<u>Active Signs with Lane Edge Marking/Striping (9 Crossings)</u>	
2.4(a)	Roadway Plan and Profile – Revisions or Inserts	
2.4(b)	Signing and Pavement Marking Plans – Revisions or Inserts	
2.4(c)	Crossing Layout – Revisions or Inserts	Nov. 30, 2020
2.4(d)	Maintenance of Traffic Plan	
<u>2.5</u>	<u>Lane Edge Marking/Striping (48 Crossings; 22 Only; 26 Supplement)</u>	
2.5(a)	Signing and Pavement Marking Plans – Revisions or Inserts	
2.5(b)	Maintenance of Traffic Plan	Dec. 31, 2020
2.5(c)	Typical Section (Optional)	
<u>2.6</u>	<u>Detailed Cost Estimate</u>	
<u>3</u>	<u>Construction</u>	
3.1	USDOT Crossing Inventory Update (see note)	Aug. 14, 2022
<u>4</u>	<u>Project Management</u>	
4.1	Final Performance Report (due 90 days after end of Project Performance Period)	

Note: Pursuant to 49 CFR, Part 234; Brightline, as the railroad, must update the USDOT Crossing Inventory within three months of completion of the installation of the improvements installed under this Project.

Approved Project Schedule

The schedule below represents the Approved Project Schedule for the completion date of the activities included in this SOW, which is effective upon the execution of this Agreement between FRA and Brightline. Task 1 (Detailed Project Work Plan) in the SOW includes the requirement for Brightline to prepare an updated Project Schedule to include additional detail on the activities required to complete each task in this SOW. Should the updated Project Schedule differ from this Approved Project Schedule, Brightline may request approval to revise the schedule to ensure that the Project can be completed within the terms and conditions of this Agreement. If required, FRA and Brightline will jointly determine if changes to the schedule require an amendment to this Agreement.

<u>Task Name</u>	<u>Activity</u>	<u>Due/Completion Date</u>
1. Detailed Project Work Plan	Detailed Project Work Plan (PWP), Schedule, Budget	Dec. 31, 2020
2. Final Design	Final Design	Dec. 31, 2020
3. Construction	Construction	Aug. 14, 2022
4. Project Management	Project Management	Aug. 31, 2022

ATTACHMENT 4

APPROVED PROJECT BUDGET

Brightline Trains Florida LLC

South Florida East Coast Rail Corridor Intrusion Prevention Project

Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program FY 2017

I. APPROVED PROJECT BUDGET

The total estimated cost of this Project is \$5,332,486; which consists of the FRA Federally funded Project of \$3,301,447 including up to \$2,373,441 in Federal funding from the FRA's FY 2017 CRISI Program in this Agreement with a \$928,006 non-Federal match from Brightline Trains Florida LLC. (Brightline or "Grantee"); and Brightline "Supplemental Funding" of up to \$2,031,039. The Grantee estimates and acknowledges that the FRA Federal Funding of \$2,373,441, non-Federal Grantee match of \$928,006, and Supplemental Funding of \$2,031,039 are required to complete the scope of the Project. Any additional expense required to complete the Project beyond that provided in this Agreement shall be borne by the Grantee.

1. FRA Federally funded Project: This Agreement awards up to \$2,373,441 in Federal Funding from the FRA's FY 2017 CRISI Program toward a \$3,301,447 "FRA Federally funded Project" with a \$928,006 non-Federal match provided by Brightline. FRA will reimburse Brightline up to \$2,373,441 or 71.8909% for eligible activities under the Project. Correspondingly, Brightline shall match the FRA funding with a non-Federal cash contribution in the amount of up to \$928,006 or 28.1091%.
2. Supplemental Funding: Brightline will provide up to \$2,031,039 in "Supplemental Funding" to complete the Project, which may include other Federal resources, such as the Federal Highway Administration (FHWA); therefore, the Grantee will administer those funds separately from those included in the FRA Federal Project.

Project Budget by Source

Funding Source	Project Contribution Amount	Percentage of FRA Federal-Project Cost	Percentage of Total Project Cost
FRA Federally-Funded Project (See Note 1)			
FRA – FY17 CRISI Program	\$2,373,441	71.8909%	44.5091%
Grantee (Brightline Trains Florida LLC)	\$ 928,006	28.1091%	17.4029%
FRA Federally-Funded Project Total:	\$3,301,447	100%	61.9120%
Supplemental Funding (See Note 2)	\$2,031,039	0%	38.0880%
Total Project Cost	\$5,332,486	100%	100%

Notes:

1. The Grantee commits to fulfill the non-Federal match required to the FRA Federally-Funded Project, which it intends to provide through either railroad resources or support from local municipalities.

ATTACHMENT 4

2. The Grantee commits to fulfill the Supplemental Funding required to complete the Project, which it intends to provide through railroad resources, support from local municipalities, and resources available from the Florida Department of Transportation (FDOT). Should the Supplemental Funding include other Federal resources, such as the FHWA, the Grantee will ensure those funds are committed and administered in accordance with the Federal regulations applicable to such sources.

Project Budget by Task

The budget in the table below represents the Approved Project Budget upon the execution of this Agreement. Task 1 (Detailed Project Work Plan) in the statement of work (SOW) includes the requirement for Brightline to prepare an updated Project Budget to include additional detail on the cost required to complete each task in this SOW, with a basis on the most recent engineering cost estimate at each respective level of design. Should the updated Project Budget differ from this Approved Project Budget, Brightline may request approval to revise the budget to ensure that the Project can be completed within the terms and conditions of this Agreement; however, in compliance with Attachment 1 of this Agreement. The Grantee will document expenditures by task, and by Federal and Non-Federal Contributions, when seeking reimbursement from FRA.

Task #	Task Name	FRA Federally-Funded Project			Supplemental Funding	Total Project Cost
		FRA Share (71.8909%)	Grantee Match (28.1091%)	FRA Federally-Funded Total		
1	Detailed PWP	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2	Final Design	\$ 441,103	\$ 172,469	\$ 613,572	\$ 0	\$ 613,572
3	Construction	\$1,743,955	\$ 681,880	\$2,425,835	\$1,546,266	\$3,972,103
4	Project Management	\$ 188,383	\$ 73,657	\$ 262,040	\$ 0	\$ 262,040
	Contingency	\$ 0	\$ 0	\$ 0	\$ 484,771	\$ 484,771
Total		\$2,373,441	\$ 928,006	\$3,301,447	\$2,031,039	\$5,332,486

Note: The FRA Federally-Funded Project and Supplemental Funding figures presented in the table above reflect the estimated allocations among fund sources; however, the Grantee may reallocate between the FRA Federally-Funded and Supplemental Funding resources as necessary to complete the Project.

ATTACHMENT 5

PERFORMANCE MEASUREMENTS

Brightline Trains USA Florida LLC

South Florida East Coast Rail Corridor Intrusion Prevention Project

Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program FY 2017

I. PERFORMANCE MEASUREMENTS

The table below contains the performance measures that this Project is expected to achieve. These performance measures will enable FRA to assess Grantee's progress in achieving strategic goals and objectives. The Grantee will report on these performance measures per the frequency and duration specified in the table.

Upon Project completion, Grantee will submit reports comparing the Actual Project Performance of the new and or improved asset(s) against the Pre-Project (Baseline) Performance and Expected Post-Project Performance as described in Table 1 below. Grantee need not include any analysis in addition to the described data; however, Grantee is welcome to provide information explaining the reported data. Grantee will submit the performance measures report to the Regional Manager in accordance with Table 1 below.

Table 1: Performance Measurement Table

Performance Measure No. 1	Description of Measure	Measurement	Reporting
Reported Accidents/ Incidents (All Crossings)	Total number of highway-rail grade crossing accidents/incidents reported to FRA in the calendar year for <u>all grade crossings</u> on the Brightline-FECR Shared Corridor between West Palm Beach and Miami, FL. As submitted to FRA on the Highway-Rail Grade Crossing Accident/Incident Report (Form FRA F 6180.57, Rev. 08/10 or newer).	Pre-Project (Baseline) Performance as of December 31, 2019: Total annual highway-rail grade crossing accidents/incidents reported to FRA in the Calendar Year 2019.	Actual Project Performance as of December 31, 2021: Comparison of actual performance of asset(s) versus the baseline and expected post-project performance.
			Frequency: Submitted annually on January 31st of 2023, 2024 and 2025.
		Expected Post-Project Performance: Total annual highway-rail grade crossing accidents/incidents reported to FRA in Calendar Years 2022, 2023 and 2024	Duration: For three years after the end of the calendar year of the Project Performance Period end date.

ATTACHMENT 5

Performance Measure No. 1 (Reported Accidents/Incidents – All Crossings) will provide a control measurement to assess the level of highway-rail grade crossing compliance along the full length of the Brightline-FECR Shared Corridor between West Palm Beach and Miami, FL.

Performance Measure No. 2	Description of Measure	Measurement	Reporting
Reported Accidents/ Incidents (Project Crossings)	Total number of highway-rail grade crossing accidents/incidents reported to FRA in the calendar year for the <u>48 Crossings improved under this Project</u> on the Brightline-FECR Shared Corridor between West Palm Beach and Miami, FL. As submitted to FRA on the Highway-Rail Grade Crossing Accident/Incident Report (Form FRA F 6180.57, Rev. 08/10 or newer).	Pre-Project (Baseline) Performance as of December 31, 2019: Total annual highway-rail grade crossing accidents/incidents reported to FRA in the Calendar Year 2019.	Actual Project Performance as of December 31, 2021: Comparison of actual performance of asset(s) versus the baseline and expected post-project performance.
			Frequency: Submitted annually on January 31st of 2023, 2024 and 2025.
		Expected Post-Project Performance: Total annual highway-rail grade crossing accidents/incidents reported to FRA in Calendar Years 2022, 2023 and 2024	Duration: For three years after the end of the calendar year of the Project Performance Period end date.

Performance Measure No. 2 (Reported Accidents/Incidents – Project Crossings) will provide a measurement to assess the level of highway-rail grade crossing compliance at the 48 crossings improved under the Project in comparison to the All Crossings metric.