

Proposed Letter of Agreement & Terms & Conditions
Between the River to Sea Transportation Planning Organization (R2CTPO or TPO)

&

Colleen Nicoulin

(Interim Executive Director)

April 6, 2022

Duties: Interim Executive Director shall perform the duties of Executive Director as specified in the attached Job Description throughout the term of this Letter of Agreement and shall perform such other legally permissible and proper duties as the Board of Directors may assign to her. It is recognized by the parties that Colleen Nicoulin was initially appointed as Interim Executive Director on July 23, 2021, and the parties wish to extend that appointment for an additional nine (9) months subject to the terms and conditions of this Letter of Agreement.

At Will Employee: Interim Executive Director shall serve at the pleasure of the R2CTPO Board of Director's and shall be considered an at-will employee in the position of Interim Executive Director. It is noted that the TPO Governing Board, or the TPO Executive Committee, Board of Directors may terminate the Interim Executive Director's employment with or without cause by a majority vote of the entire membership of the TPO Governing Board, or the TPO Executive Committee, Board of Directors, subject to the provisions in this Letter of Agreement.

Effective Date: TBD based upon acceptance by the R2CTPO Board of Directors and Interim Executive Director

Term: Nine (9) months from the effective date, but in no event later than January 31, 2023, unless said date is extended by the parties hereto.

a. **Base Salary:** \$120,000 per year paid in equal installments in a manner consistent with R2CTPO practices. During the term of this Letter of Agreement, any Cost of Living Adjustments (COLA) approved by the Executive Committee or the TPO Governing Board for TPO employees, or for the Interim Executive Director, shall also be applied to the Interim Director's base salary, which upon application shall become the new base salary of the Interim Director.

Performance Evaluation Process: The R2CTPO Executive Committee Board of Directors ~~(or Executive Committee?)~~ shall assess the performance of the Interim Executive Director in a formal evaluation subject to a process, form, criteria, and format which shall be mutually agreed upon by the Executive Committee Board and the Interim Executive Director approximately six (6) months following the effective date of this Letter of Agreement. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Interim Executive Director within thirty (30) days of the evaluation meeting. The Interim Executive Director's compensation and/or benefits may be adjusted as deemed appropriate by the Executive Committee Board following the performance review, and the TPO Executive Committee Board of Director's shall advise the Interim Executive Director of their desire to appoint her as the regular R2CTPO's Executive

Director, or alternatively seek her continuance as Interim Executive Director while the TPO Executive Committee, Board of Directors undertakes a recruitment for the Executive Director.

Other Termination: It is understood by the parties that there are certain bases for termination of employment under which there shall be no obligation on the R2CTPO's part to provide the Interim Executive Director any salary or benefits beyond the effective date of termination; provided, that if she is not offered the position of Executive Director following the six month evaluation period referenced above, that she shall return to her previous position as Manager of Operations & Planning as set forth below. These bases for termination include:

1. Voluntary resignation by Interim Executive Director;
2. Interim Executive Director's death;
3. Permanent disability that renders the Interim Executive Director unable to perform her duties;
4. By mutual agreement by the parties;
5. Any act of moral turpitude on Interim Executive Director's part;¹ or
6. Interim Executive Director is terminated for just cause, defined as:
 - a. Conviction of any serious crime or breach of public trust (other than a traffic offense), or
 - b. Violation of terms of the Letter of Agreement, or
 - c. Gross neglect of duties on Interim Executive Director's part, provided that she was given, in writing, notice of specific allegations of gross neglect and failed to substantially cure such deficiencies within 30 days, or once cured, such gross neglect becomes chronic
7. In the event of material breach of this Letter of Agreement by the R2CTPO, the Interim Executive Director may make a written request for correction on the R2CTPO's part. Failure on the part of the Interim Executive Director to do so in writing within thirty (30) days or fewer shall constitute a waiver on the part of the Interim Executive Director to seek a correction of the affect a termination of the Letter of Agreement.

Contracts In Excess of \$10,000: As provided by Appendix II to 2 C.F.R. Part 200, all Agreements in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. The basis for termination for cause is set forth above. The Interim Executive Director may be terminated for convenience by the TPO Governing Board upon thirty days written notice; provided, that at such termination, the Interim Executive Director shall revert to her prior position as Manager of Operations and Planning as described below. The TPO shall pay the Interim Executive Director for work completed to the date of termination. The TPO reserves the right and is hereby granted the right to direct the Interim Executive Director to complete any outstanding approved work activities.

¹ "Moral turpitude" is defined as a "[c]onduct that is contrary to justice, honesty, or morality, esp. an act that demonstrates depravity." See Black's Law Dictionary at 1163 (10th ed. Thomson Reuters 2014). Florida courts have defined moral turpitude as "the idea of inherent baseness or depravity in the private social relations or duties owed by man to man or by man to society." Florida courts have specifically held that manslaughter by culpable negligence is a crime of moral turpitude. The courts have also found bookmaking to be a crime of moral turpitude. The courts have determined that a physician selling bogus diplomas and licenses committed a crime of moral turpitude. However, certain crimes, such as possession of a controlled substance have been held not to be a crime of moral turpitude. Scott Harris, Attorneys at Law at www.scott-harris.com/articles/what-is-moral-turpitude/.

Hours of Work: It is recognized that the Interim Executive Director's will devote a significant amount of time outside the normal office hours to the performance of her duties for the R2CTPO, and the Interim Executive Director will be allowed to establish an appropriate work schedule consistent with the professional nature of her employment.

Development of R2CTPO Strategic Plan: The Interim Executive Director shall draft and submit a proposed R2CTPO Strategic Plan to the Board of Directors within 60 days ~~two months~~ of the effective date of this Letter of Agreement to identify the organization's strengths, weaknesses, opportunities, threats, challenges and opportunities, and proposed goals and objectives for the Executive Committee ~~Board's~~ consideration.

Filling of Existing Staff Vacancies: It is recognized by the parties that the R2CTPO has been operating with a number of approved full-time positions over the last several months, and the Interim Executive Director shall be authorized to commence actions to recruit and fill such vacancies subject to R2CTPO practices and policies during the term of this Letter of Agreement.

Existing Employee Benefits: The Interim Executive Director shall continue to receive all benefits accrued to current full-time employees based upon her experience and tenure with the R2CTPO throughout the term of this Letter of Agreement as may presently exist or may be added, deleted, or changed from time to time for full-time employees of the R2CTPO.

Other Employment: Interim Executive Director agrees to devote her full attention and best efforts to her duties per the attached job description, and she shall not become employed by any other employer while employed by the R2CTPO or accept voluntary positions that detract from her ability to perform her duties.

Resumption of Duties as Manager of Operations & Planning: In the event the Executive Committee ~~Board of Director's~~ does not offer the Interim Executive Director the regular Executive Director position following the six-month performance evaluation, she shall be entitled to resume her previous duties as the R2CTPO's Manager of Operations & Planning position following the completion of her responsibilities and remaining term as Interim Executive Director. Under such a circumstance, she shall be provided with the then applicable compensation and benefits accorded to an employee with her experience and organizational tenure consistent with the R2CTPO's personnel policies and procedures.

Resignation: Interim Executive Director shall provide as much notice as possible in advance of her voluntary resignation of her position with the R2CTPO, but not less than thirty (30) days.

Miscellaneous: This Letter of Agreement sets forth and establishes the entire understanding between the R2CTPO and Interim Executive Director concerning the employment relationship of the parties. All prior discussions or representatives by or between the parties have been merged into this Letter of Agreement. The parties by mutual written agreement may amend any provision of this Agreement during its terms. Any such amendments shall be incorporated into and made a part of this Agreement. This Agreement will be binding on the R2CTPO, and its successors, and on the Interim Executive Director, and her heirs and personal representatives. This Letter of Agreement shall become effective upon its execution by each party following its approval by the R2CTPO Board of Directors, which effective date shall be written at the top of the first page of this Letter of Agreement. This Letter of Agreement and the relationship of the parties will be governed and construed under the laws of the State of Florida. The invalidity or partial invalidity of any portion of this Letter of Agreement will not affect the validity of any

other provision. Should a court of competent jurisdiction hold any provision of this Letter of Agreement to be invalid, the remaining provisions will be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Indemnification: To the extent permitted by Section 11.07, Florida Statutes, the TPO will provide an attorney to defend any civil action arising from a complaint for damages or injury suffered as a result of any act or omission of action by or of the Interim Executive Director for an act or omission arising out of and in the course and scope of its employment or function, unless, the Interim Executive Director has acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Defense of such civil action includes, but is not limited to, any civil rights lawsuit seeking relief personally against the Interim Executive Director for an act or omission under color of state law, custom, or usage, wherein it is alleged that the Interim Executive Director has deprived another person of rights secured under the Federal Constitution or laws. Any attorney's fees paid from public funds for the Interim Executive Director who is later found to be personally liable by virtue of acting outside the scope of its employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, may be recovered by the TPO in a civil action against the Interim Director. This section shall survive the termination of this Agreement.

Public Entity Crimes: In accordance with Sections 287.132 and 287.133, Florida Statutes, by entering into this Agreement or performing any Work in furtherance hereof, the Interim Director certifies that it, its affiliates, suppliers, and subcontractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date of this Agreement.

Discriminatory Vendor List: The Interim Executive Director hereby certifies that she has not been placed on Florida's Department of Management Services' Discriminatory Vendor List as provided under Section 287.134, Florida Statutes.

Title VI – Nondiscriminatory Policy Statement: During the performance of this Agreement, the Interim Executive Director agrees for itself and her successors in interest as follows:

a. Compliance with Regulations. The Interim Executive Director shall comply with the nondiscrimination regulations applicable to federally assisted programs of the U.S. Department of Transportation ("DOT") set forth at 49 CFR Part 21, as they may be amended from time to time (referred to hereinafter as the "Regulations"). Said Regulations are hereby incorporated into and made a part of this Agreement by reference. As required by 49 CFR 26.13, the Interim Executive Director is advised that the TPO shall not discriminate on the basis of race, color, national origin, religion, gender, age or disability in the award and performance of any DOT-assisted contract or in the administration of its DBE ("Disadvantage Business Enterprise") program or the requirements of 49 CFR Part 26. The TPO shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

b. Nondiscrimination. The Interim Executive Director, with regard to the work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or familial status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Interim Executive Director shall not participate either directly or indirectly in the discrimination prohibited by the Regulations established at 49 CFR 21,

as they may be amended from time to time, including employment practices, if this Agreement covers a program set forth in Appendix B of the Regulations.

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

d. Sanctions for Noncompliance. In the event of the Interim Executive Director's noncompliance with the nondiscrimination provisions of this Agreement, FDOT may impose such contract sanctions as it or FHWA, FTA, FAA, and/or FMCSA may determine to be appropriate, including, but not limited to: 1. Withholding of payments to the Interim Executive Director until the Interim Executive Director complies; and/or 2. Cancellation, termination or suspension of the Agreement, in whole or in part.

e. The Interim Executive Director does hereby represent and certify that she will comply with all the requirements imposed by Title VI of the Civil Rights Acts of 1964 and Title VII of the Civil Rights Act of 1968, as they have been and may be modified from time to time (42 U.S.C. 2000d, et seq. and 3601 et seq.), and all applicable implementing regulations of the U.S.DOT and its agencies.

f. The Interim Executive Director does hereby represent and certify that it will comply with all the requirements of the Americans with Disabilities Act (42. U.S.C. 12102, et seq.) and all applicable implementing regulations of the U.S.DOT and its agencies.

g. The Interim Executive Director shall report all grievance or complaints pertaining to its actions and obligations under this Section to the TPO.

Conflict of Interest:

a. The Interim Executive Director represents that she presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Section 112.311 et seq., Florida Statutes. The Interim Executive Director further represents that no person having any such interest shall be employed to assist in the performance of this Agreement.

b. The Interim Executive Director shall promptly notify the TPO's Governing Board's Chair, in writing, by U.S. certified mail, return receipt requested or by hand delivery, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the Interim Executive Director's judgment or the quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest, or circumstance, the nature of work that the Interim Executive Director may undertake and advise the TPO as to whether the association, interest, or circumstance would constitute a conflict of interest if entered into by the Interim Executive Director. The TPO Board Chair may notify the Interim Executive Director of its opinion as to whether a conflict exists under the circumstances identified by the Interim Executive Director. If, in the opinion of the TPO Governing Board Chair, the prospective business association, interest or circumstance would constitute a conflict of interest by the Interim Executive Director, then the Interim Executive Director shall immediately act to resolve or remedy the conflict. If the Interim Executive Director shall fail to do so, the TPA may terminate this Agreement for cause.

c. The Interim Executive Director shall not enter into any contract, subcontract, or arrangement personal to the Interim Executive Director in connection with its work with the TPO or any property included or planned to be included in the TPO work, with any officer, agent or employee of the TPO or any business entity of which the officer, agent, or employee or the officer's, agent's or employee's spouse or child is an officer, partner, agent, or proprietor or in which such officer, agent or employee or the officer's, agent's or employee's spouse or child, or any combination of them, has a material interest. "Material Interest" means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of any business entity.

d. The Interim Executive Director shall not enter into any contract or arrangement personal to the Interim Executive Director in connection with the TPO's work, with any person or entity that was represented before the TPA by any person, who at any time during the immediately preceding two (2) years, was an officer, agent, or employee of the TPO.

e. The Interim Executive Director agrees for itself in the Interim Executive Director's personal capacity and shall insert in all contracts entered into in connection with the TPO work or any property included or planned to be included in the TPO work, and shall require its contractors to insert in each of their subcontracts, the following provision:

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

Contingent Fees:

The Interim Executive Director warrants that she has not employed or retained any company or person, other than a *bona fide* employee working solely for the Interim Executive Director in her personal capacity, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Interim Executive Director, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

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

a. The Interim Executive Director agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the TPA, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid to the Interim Executive Director for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Work, the Interim Director shall complete and submit Standard Form-I-LL "Disclosure Form to Report Lobbying," in accordance with its instructions or provide notification to the TPA in any other manner the TPA may allow.

c. The Interim Executive Director shall include the two (2) above-stated clauses modified to show the particular contractual relationship, in all subcontracts personal to the Interim Executive Director that it enters into related to the Work.

d. The Interim Executive Director may not expend any funds received under this Agreement for lobbying the Florida Legislature or any agency of the State.

Restrictions, Prohibitions, Controls, and Labor Provisions:

a. Federal Participation. It is understood and agreed that, in order to permit TPO participation in the expenditure of Federal PL Funds, this Agreement may be subject to the approval of FHWA or FDOT. It is understood and agreed that, in order to permit TPO participation in the expenditure of Federal PL Funds, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the Work to be performed hereunder without the approval of FHWA or as otherwise provided for in this section.

b. Inspection, Review, Approval, and Audit. It is understood and agreed that all rights of the FDOT or FHWA relating to inspection, review, approval, and audit of the work, tracings, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.

c. Record-keeping and documentation retention. The DOT and the TPO shall prepare and retain all records in accordance with the federal and state requirements, including but not limited to 2 CFR Part 200, 23 CFR Part 420, 49 CFR 18, 49 CFR 18.42, and Chapter 119, Florida Statutes, all as amended from time to time.

d. Prohibited Interests. Neither the TPO nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with this Agreement, in which a member, officer, or employee of the TPO, either during his or her tenure or for one year thereafter, has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquired or had acquired prior to the beginning of his or her tenure any such interest, and if such interest is immediately disclosed to the TPO and such disclosure is entered in the minutes of the TPO, the TPO may waive the prohibition contained in this paragraph; provided, that any such present member, officer, or employee shall not participate in any action by the TPO or the locality relating to such contract, subcontract, or arrangement.

No Government Obligation to Third Parties:

a. The Interim Executive Director agrees, absent express written consent of the Federal Government, that the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to any third party contractor, or any sub-recipient, or any other party pertaining to any matter resulting from this Employment Agreement or purchase order related thereto. The Interim Executive Director agrees to include a similar provision in each subcontract (if any) which must be approved by the TPA and which is financed in whole or in part with federal assistance provided by FTA.

b. Program Fraud and False or Fraudulent Statements. The Interim Executive Director acknowledges that the provisions of the program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with this Agreement. Upon execution of this Agreement, the Interim Executive Director certifies and affirms the truthfulness and accuracy of any statement it has made, causes to be made, makes, or may make pertaining to the Agreement or the underlying FTA assisted project for which this Agreement is being performed. In addition to other penalties that may apply, the Interim Executive Director acknowledges that if she makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on it to the extent the Federal Government may deem appropriate. The Interim Executive Director also acknowledges that if the Interim Executive Director makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with federal assistance

authorized for 49 USC §5307, the Federal Government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n) (1), to the extent the Federal Government deems appropriate. The Interim Executive Director agrees to include the above stated provisions in each subcontract financed in whole or in part with federal assistance provided by the FTA. The Interim Executive Director shall not modify the above stated provisions except to identify the subcontractor who will be subject to the provision.

c. Federal Changes. The Interim Executive Director shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, as they may be promulgated or amended from time to time during the term of this Agreement. The Interim Director's failure to so comply shall constitute a material breach of this Agreement. The Interim Executive Director agrees to include the above stated provision in each subcontract; provided, that this provision shall not be interpreted to authorize a subcontract.

d. Incorporation of FHWA and FTA Terms. This Agreement shall be deemed to include and does hereby incorporate by reference all standard terms and conditions required by the U.S. DOT, FHWA, and FTA, regardless of whether expressly set forth in this Agreement and include, but are not limited to, all of the duties, obligations, terms and conditions applicable to the work arising from this Agreement as described in FTA Circular 4220.1 F, and applicable federal law. Anything to the contrary herein notwithstanding, all FHWA and FTA mandated terms shall be deemed to control in the event of a conflict with any other provisions contained in this Agreement. The Interim Executive Director shall not perform any act, fail to perform any act, or refuse to comply with any requirement which would cause the TPO to be in violation of its Joint Planning Agreement with FDOT or any FHWA or FTA terms and conditions applicable to this Agreement. The Interim Executive Director agrees to include the above stated provision in each subcontract financed in whole or in part with FTA assisted funding; provided, that this provision shall not be construed to authorize any subcontract without TPO approval.

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

Public Records:

a. It is hereby specifically agreed that all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business pursuant to or related to this Agreement of the Interim Executive Director, related, directly or indirectly, to this Agreement, hereunder, shall be deemed to be a "Public Record" whether in the possession or control of the TPO or the Interim Executive Director. Further, the Interim Executive Director agrees that pursuant to this Agreement, the Interim Executive Director is performing a service on behalf of the TPO. Consequently, said Public Record referenced above is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the TPO's contract administrator.

b. The Interim Executive Director is required by this Agreement and Florida law to:

1. Keep and maintain Public Records required by the TPO to perform the service.
2. Upon request from the TPO's custodian of Public Records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed, except as authorized by law for the duration of the

Agreement term and following completion of the Agreement, if the Interim Executive Director does not transfer the records to the TPO.

4. Upon completion of the Agreement, transfer, at no cost, to the public agency all Public Records in possession of the Interim Executive Director or keep and maintain Public Records required by the TPO to perform the service. If the Interim Executive Director transfers all Public Records to the TPO upon completion of the Agreement, the Interim Executive Director shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Interim Executive Director keeps and maintains Public Records upon completion of the Agreement, the Interim Executive Director shall meet all applicable requirements for retaining Public Records. All records stored electronically must be provided to the TPO, upon request from the TPO's custodian of Public Records, in a format that is compatible with the information technology systems of the TPO.

c. Because certain of the Public Records may be exempt from disclosure or confidential under Florida or Federal law, the Public Records may not be released for viewing or copying by the Interim Executive Director in her personal capacity, if any, without the prior written approval of the TPO contract administrator. However, when a request is made by the public for a Public Record, the Interim Executive Director shall immediately contact the TPO contract administrator for direction on how to handle release of the Public Record for either viewing or copying.

d. Upon request by a citizen requesting records, the Interim Executive Director shall immediately supply copies of said non-exempt or non-confidential Public Records to the citizen requesting records or other individual authorized by the TPO. Upon request by the TPO, the Interim Executive Director shall immediately supply copies of any and all Public Records to the TPO. All books, cards, registers, receipts, documents and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the Interim Executive Director be open and freely exhibited to the TPO for the purpose of examination and/or audit.

e. Charges for furnishing Public Records to the public shall be as set forth in Chapter 119, Florida Statutes. There shall be no charges for furnishing copies of Public Records to the TPO.

f. The Interim Executive Director shall maintain all Public Records, including records of accounts between the TPO and the Interim Executive Director expenses or any items upon which a request for reimbursement shall be based pursuant to this Agreement in accordance with generally accepted accounting practices and available for inspection by the TPO or its authorized representative at all reasonable times.

g. The Interim Executive Director is advised as follows:

IF THE Interim Executive Director HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, AT (386) 226-0422, staff @R2CTPO.org [e-mail address], and Indigo Professional Center, 2570 West International Speedway Blvd., Suite 100, Daytona Beach, FL 32114-8145.

h. This Section shall survive the termination of this Agreement.

Unauthorized Alien Workers: The TPO will not intentionally award publicly funded contracts to any contractor, or to the Interim Executive Director, who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a (Section 274a of the Immigration and Nationality Act "INA".) of the Immigration Nationality Act ("INA"). The TPO shall consider a violation of the INA as grounds for unilateral cancellation of this Agreement by the TPO. As required by Section 448.095, Florida Statutes, the Interim Executive Director shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing the use of the system, to confirm the employment eligibility of: (i) all persons employed by the Interim Executive Director during the term of this Agreement to perform employment duties within Florida; and (ii) all persons, including subcontractors, assigned by the Interim Executive Director to perform work pursuant to this Agreement with the TPO.

Non-Exclusive Agreement: The parties acknowledge that this Agreement is not an exclusive agreement, and the TPO may employ other facilitators, engineers, planners, professional or technical personnel to furnish services for the TPO, as the TPO, in its sole discretion, finds is in the public interest. The TPO reserves the right to assign such work to the Interim Executive Director as it may approve in the sole discretion of the TPO.

REQUIRED FEDERAL DISCLAIMER: The Interim Executive Director agrees that it shall display the following disclaimer on all reports generated by the Interim Executive Director:

The preparation of this report has been financed in part through grant[s] from the Federal Highway Administration and Federal Transit Administration, U.S. Department of Transportation, under the State Planning and Research Program, Section 505 [or Metropolitan Planning Program, Section 104(f)] of Title 23, U.S. Code. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation.

Right To Inventions Made Under This Agreement: If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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

Clean Water: If this Agreement is valued at \$100,000 or more, the Interim Executive Director agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The Interim Executive Director agrees to report each violation to the TPO and agrees that the TPO will, in turn, report each violation as required to assure notification to the FTA and the appropriate U.S. Environmental Protection Agency regional office. The Interim Executive Director also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by Federal Transportation Agency.

Energy Conservation: The Interim Executive Director agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the U.S. Energy Policy and Conservation Act.

Seat Belts: The Interim Executive Director is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate Interim Executive Director-owned, rented or personally operated vehicles, to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging, and to address each in every sub-agreement it enters into related to this Agreement. Specifically, the Interim Executive Director is encouraged to comply with: (a) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note; (b) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and (c) U.S. DOT provisions pertaining to Distracted Driving as set forth in said orders. In addition, the Interim Executive Director, its employees, agents, and volunteers shall comply with the Florida Safety Belt Law, Section 316.614, Florida Statutes.

Reducing Text Messaging While Driving: Pursuant to Executive Order 13513, 74 Fed.Reg. 51225 (Oct. 6, 2009), the Interim Executive Director is encouraged to adopt and enforce policies that ban text messaging while driving. Further, neither the Interim Executive Director, nor its employees, agents, and volunteers, shall not violate the Florida Ban on Texting While Driving Law, Section 316.305, Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of April, 2022.

RIVER TO SEA TRANSPORTATION
PLANNING ORGANIZATION, a legal entity
Formed by Interlocal Agreement pursuant
to Section 339.175, Florida Statutes

By: _____
Billie Wheeler, Chair

ATTEST:

, Agency Clerk

INTERIM EXECUTIVE DIRECTOR:

Colleen Nicoulin