

LANGUAGE FOR INCORPORATION INTO THE  
CONTRACT OF ASSISTANCE

TX-34-0003

As a precondition to the receipt of assistance, the Texas Department of Transportation, shall ensure, that the "Public Bodies," the Aspermont Small Business Development Center (ASBDC), Inc., CityLink (the City of Abilene), the City of Cleburne — CLETRANS, the City of Del Rio, EZ Rider (the City of Odessa), the Galveston County Transit District (GCTD), the Gulf Coast Center (AKA Connect Transit), Longview Transit (the City of Longview), Port Arthur Transit (PAT) (the City of Port Arthur), Senior Center Resource

& Public Transit (SCRPT), Inc., the Transit System (TTS), Inc., and the

Webb County Community Action Agency, agree that the following terms and conditions shall apply for the protection of employees in the mass passenger transportation industry in the service area of the project:

1. The project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees in the mass passenger transportation industry within the service area of the project. The "service area" as used herein, includes the geographic area over which the project is operated and the area whose population is served by the project, including adjacent areas affected by the project;
2. All rights, privileges, and benefits (including pension rights and benefits) of employees (including employees already retired) shall be preserved and continued;
3. The Public Body shall be financially responsible for any deprivation of employment or other worsening of employment position as a result of the project;
4. In the event an employee is terminated or laid off as a result of the project, he shall be granted priority of employment or reemployment to fill any vacant position for which he or she is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the Public Body shall provide or provide for such training or retraining at no cost to the employee;
5. Any employee who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe

benefits, or rights and privileges pertaining thereto at any time during his or her employment as a result of the project, including any program of efficiencies or

economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangement, known as C-1, certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970 on April 16, 1971 (See Appendix C- 1, a copy of which is included on the Department's website.).

An employee shall not be regarded as deprived of employment or placed in a worse position with respect to compensation, etc., in case of his or her resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline. The phrase "as a result of the project" as used herein shall include events occurring in anticipation of, during, and subsequent to the project;

6. In the event any provision of these conditions is held to be invalid or otherwise unenforceable, the Public Body, the employees and/or their representatives may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in these conditions;
7. The Public Body agrees that any controversy respecting the project's effects upon employees, the interpretation or application of these conditions and the disposition of any claim arising hereunder may be submitted by any party to the dispute including the employees or their representative for determination by the Secretary of Labor, whose decision shall be final.

In the event of any dispute as to whether or not a particular employee was affected by the project, it shall be the employee's obligation to identify the project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Public Body to prove that factors other than the project affected the employee. The claiming employee shall prevail if it is

established that the project had an effect upon the employee even if other factors may also have affected the employee (See Hodgson's Affidavit in Civil Action No. 825-71);

8. The Public Body shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the making of the decisions called for in the preceding paragraph;
9. The Public Body will post, in a prominent and accessible place, a notice stating that the Public Body is a recipient of Federal assistance under the Federal Transit Act and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). The notice shall specify the terms and conditions set forth herein for the protection of employees; and

10. The protective arrangements certified by the Secretary of Labor are intended for the primary and direct benefit of transit employees in the service area of the project. These employees are intended third-party beneficiaries to the employee protective arrangements of the grant contract between the U.S. Department of Transportation and the Grantee/Applicant, and the parties to the contract so signify by executing that contract. Such transit employees are also third-party beneficiaries to the protective arrangements incorporated in any subsequent contract(s) of assistance between the Grantee and any Recipient(s). Employees, or their representative on their behalf, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government.

As a precondition to the release of assistance to any Recipient, this letter and the terms and conditions of the protective agreements or arrangements referenced above, shall be incorporated into the contract of assistance between the Grantee and/or Applicant and such Recipient, by reference.

Attachment A (DOL Letter) -1  
Small Urban and Rural Recipients

Alamo Area Council of Governments (AACOG) – ATU, IBT Ark-Tex

Council of Governments – ATU, UFCW

Capital Area Rural Transit System (CARTS) – ATU, IBT, AFSCME Colorado

Valley Transit (CVT), Inc. – ATU

Community Action Council of South Texas (CACST) – ATU, UTU Community  
Services (CS), Inc. – ATU

Golden Crescent Regional Planning Commission (GCRPC) – ATU, IBT, AFSCME Heart of Texas  
Council of Governments (HOTCOG) – TWU

Panhandle Community Services (PCS) – ATU, UTU Public  
Transit Services (PTS) – ATU

Rural Economic Assistance League (REAL), Inc. – ATU

South East Texas Regional Planning Commission (SETRPC) - ATU South Plains

Community Action Association (SPCAA) – UTU Southwest Area Regional Transit  
District (SWARTD) – ATU, IBT Special Programs for Aging Needs (SPAN), Inc. –  
ATU, IBT

West Texas Opportunities (WTO), Inc. – ATU