

COUNCIL OF THE CITY OF ABERDEEN
Ordinance No. 24-O-11

Date Introduced: May 6, 2024

Sponsored by: Council President Adam Hiob and Councilwoman Tandra Ridgley

Public Hearing: May 20, 2024

Amendments Adopted:

Date Adopted:

Date Effective:

1 **AN ORDINANCE concerning**

2
3 **ABERDEEN TRAIN STATION MEMORANDUM OF AGREEMENT**

4
5 **FOR** the purpose of approving a certain Memorandum of Agreement between the City and the
6 Maryland Mass Transit Administration related to certain funding for the City of Aberdeen Station
7 Square Project; and all matters generally related to improvements to the Aberdeen MARC/Amtrak
8 Train Station and surrounding area.

9
10 * * * * *

11
12 **EXPLANATORY STATEMENT:** The Federal Transit Administration has appropriated
13 four million dollars (\$4,000,000.00) of Community Project Funding from the Consolidated
14 Appropriations Act, Fiscal Year 2023, to the City of Aberdeen for 30 Percent Design of the City
15 of Aberdeen Station Square Project (“Project”). Such funds would be administered by the Mass
16 Transit Administration. The Project, when constructed, would increase connectivity, mobility, and
17 public safety at Aberdeen MARC/Amtrak Train Station (“Station”) by implementing the following
18 improvements: removal of existing physical barriers at the Station that limit pedestrian movement
19 between the east and west sides of the City and installing a new pedestrian connection; making the
20 Station building, platforms, and tracks compliant with the Americans with Disabilities Act
21 (“ADA”); and construction of Complete Streets improvements to US 40 in proximity of the
22 Station. In order to receive such funds the City must enter into the attached Memorandum of
23 Agreement. The Mayor and Council believes the Memorandum of Agreement is in the long-term
24 interests of the City and its residents.

25
26 **SECTION 1. BE IT ENACTED BY THE COUNCIL OF THE CITY OF ABERDEEN**
27 that a certain Memorandum of Agreement between the City of Aberdeen and Maryland Transit
28 Administration, (“MTA”) or (“Administration”), a modal agency of the Maryland Department of
29 Transportation acting for and on behalf of the State of Maryland, a copy of which is attached to
30 this Ordinance as Exhibit A, is ratified and approved, and the Mayor is authorized to execute such
31 Memorandum of Agreement on behalf of the City.

1 **SECTION 2. BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY OF**
2 **ABERDEEN**, that this Ordinance shall become effective at the expiration of twenty (20) calendar
3 days following adoption.

COUNCIL OF THE CITY OF ABERDEEN

Patrick L. McGrady, Mayor

Adam M. Hiob, Council President

Timothy W. Lindecamp, Councilman

William H. Montgomery, III, Councilman

Tandra A. Ridgley, Councilwoman

ATTEST:

SEAL:

Monica A. Correll, City Clerk

Date _____

Exhibit A

MEMORANDUM OF AGREEMENT

BETWEEN

MARYLAND TRANSIT ADMINISTRATION

AND

CITY OF ABERDEEN

FOR

City of Aberdeen Consolidated Appropriations Act FY2023, Community Project Funding

This Memorandum of Agreement (“MOA”) effective as of March _____, 2024, is made by and between the Maryland Transit Administration, (“MTA”) or (“Administration”), a modal agency of the Maryland Department of Transportation acting for and on behalf of the State of Maryland, located at 6 Saint Paul Street, Baltimore, Maryland 21202, and the City of Aberdeen, (“ABERDEEN”) or (“Recipient”), located at 60 N. Parke Street, Aberdeen, Maryland 21001, hereinafter sometimes collectively referred to as the “Parties”.

Recitals

WHEREAS, the Federal Transit Administration (“FTA”) has appropriated four million dollars (\$4,000,000.00) of Community Project Funding (“CPF Funds”) from the Consolidated Appropriations Act, Fiscal Year 2023, to ABERDEEN for 30 Percent Design of the City of Aberdeen Station Square Project (“Project”); and

WHEREAS the Project, when constructed, would increase connectivity, mobility, and public safety at Aberdeen MARC/Amtrak Train Station (“Station”) by implementing the following improvements: removal of existing physical barriers at the Station that limit pedestrian movement between the east and west sides of the City and installing a new pedestrian connection; making the Station building, platforms, and tracks compliant with the Americans with Disabilities Act (“ADA”); and construction of Complete Streets improvements to US 40 in proximity of the Station; and

WHEREAS, MTA is an existing direct recipient in the FTA Transit Award Management System and has been identified by ABERDEEN to administer the CPF funds on behalf of FTA to ABERDEEN; and

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, the Parties hereby agree as follows:

1 **1. PROGRAM AND SERVICES TO BE PROVIDED**

- 2
- 3 1.1. The CPF funds will complete Phase I of the Project, which includes, but is not
- 4 limited to, up to 30 percent designing, including Preliminary Architectural and
- 5 Engineering Design Services, National Environmental Policy Act (“NEPA”) analysis
- 6 and a Phase II Environmental Site Assessment, and cost estimating for the Project.
- 7
- 8 1.2. The Project shall be consistent with relevant local, state, and federal design standards
- 9 and guidelines.
- 10
- 11 1.3. The Recipient shall engage a professional engineer, registered in the State of
- 12 Maryland, for design services on the Project. Notwithstanding anything to the
- 13 contrary herein, the Recipient shall have final rights of approval.
- 14
- 15 1.4. The Recipient will assume all maintenance and operating costs associated with the
- 16 Project when it is completed.
- 17

18

19 **2. TERMS AND TERMINATION**

- 20
- 21 2.1. The term of this agreement shall be April _____, 2024 through June 30, 2029,
- 22 regardless of the actual date of execution.
- 23
- 24 2.2. This Agreement may be amended only as MTA and ABERDEEN mutually agree in
- 25 writing. Except for the specific provision of the Agreement thereby amended, the
- 26 Agreement shall remain in full force and effect after such an amendment.
- 27
- 28 2.3. The Parties may agree in writing to an earlier termination date.
- 29

30

31 **3. GENERAL PROVISIONS AND CONDITIONS**

- 32
- 33 3.1. The terms of this Agreement and its execution are subject to all applicable Maryland
- 34 laws and regulations and approval of other agencies of the State of Maryland as
- 35 required under State laws and regulations.
- 36
- 37 3.2. This Agreement, together with the Exhibits “A”, “B”, and “C” attached hereto and
- 38 incorporated herein by reference, represents the complete, total, and final
- 39 understanding of the Parties, and no other understandings or representation, oral or
- 40 written, regarding the subject matter of this Agreement shall be deemed to exist or to
- 41 bind the Parties hereto at the time of execution.
- 42
- 43 3.3. The recitals (WHEREAS) clauses at the beginning of this MOA are incorporated
- 44 herein as substantive portions of this MOA.
- 45

1 **4. ASSIGNMENT**

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3 4.1. This Agreement shall inure to and bind upon parties hereto, their agents, successors,
4 and assigns, to the extent an assignment has been approved pursuant to Section 4.2 of
5 this Agreement.

6 4.2. ABERDEEN shall not assign any portion of the work to be performed under this
7 Agreement or execute any contract, amendment, or change-order thereto, or obligate
8 itself in any manner with any third-party with respect to its rights and responsibilities
9 under this Agreement without MTA review, approval, and concurrence prior to
10 execution.

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13 **5. PAYMENT**

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15 5.1. MTA will administer to ABERDEEN a sum not to exceed, in the aggregate, the sum
16 of Four Million Dollars (\$4,000,000.00) to be used by the Recipient for the
17 completion of Phase 1 of the Project. The Recipient shall be responsible for all work
18 in connection with the Project.

19
20 5.2. The City has committed One Million Dollars (\$1,000,000) in matching funds in
21 accordance with CPF funding requirements for a 20 percent non-federal match by the
22 Recipient, for a total Project Phase I cost of \$5,000,000.00; and
23

24
25 **6. METHOD OF PAYMENT**

26
27 6.1. ABERDEEN shall submit an invoice for reimbursement to MTA. Payments shall be
28 processed within sixty (60) days of receipt of an approved invoice. Payments shall
29 be through the State's Financial Management System ("FMIS").
30

31 6.2. ABERDEEN's Federal Tax Identification Number is 52-6000957 and the applicable
32 FMIS mail code is 894. ABERDEEN agrees to reference both numbers on the
33 invoices billed to MTA.
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36 **7. COMPENSATION**

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38 7.1. The total amount of CPF funds will be paid by the MTA on behalf of FTA to
39 ABERDEEN. Payment will be made upon receipt and approval by the MTA of a
40 Request for Payment submitted by ABERDEEN in conformity with Section D of the
41 "Guidelines for Project Administration," which is attached as Exhibit A.
42
43

1 **8. CONTRACTS UNDER THIS GRANT**
2

3 8.1. Prior to execution, ABERDEEN shall submit to the MTA for its review and approval
4 any third party contract proposed to be executed in accordance with this section in
5 conformity with Section C, paragraph 2 of the "Guidelines for Project
6 Administration," which is attached as Exhibit A to this MOA.
7

8
9 **9. NO MTA OBLIGATIONS TO THIRD PARTIES**
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11 9.1. Neither MDOT nor the MTA shall be subject to any obligations or liabilities by
12 contractors of ABERDEEN or their subcontractors or any other person not a party to
13 this Grant in connection with the performance of the Project pursuant to the
14 provisions of this Grant without the specific consent of the MTA and MDOT and
15 notwithstanding its concurrence in or approval of the award of any contract or
16 subcontract or the solicitation thereof.
17

18
19 **10. REPORTS AND RECORDS**
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21 10.1. ABERDEEN shall submit to the MTA such progress narrative, financial and
22 statistical reports relative to the Project in a form and at such times as prescribed by
23 the MTA in Section D of the "Guidelines for Project Administration," which is
24 attached as Exhibit A to this MOA.
25

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27 **11. DOCUMENTATION OF PROJECT COSTS**
28

29 11.1. ABERDEEN shall assure that all costs charged to the Project, including any
30 approved services contributed by ABERDEEN or others, are supported by properly
31 executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail
32 the nature and propriety of the charges as described in Section D of the "Guidelines
33 for Project Administration," which is attached as Exhibit A.
34

35 **12. PROJECT ADMINISTRATION**
36

37 12.1. ABERDEEN shall designate a Project Director to act on its behalf in the
38 negotiation of matters arising out of the MOA and to assume supervisory
39 responsibility for the administration of the Project.
40

41 12.2. ABERDEEN shall administer the Project in accordance with the "Guidelines for
42 Project Administration," which is incorporated by reference in this MOA and
43 attached as Exhibit A.
44

12.3. The Administrator of the MTA or their designee shall be the authorized agent to act on behalf of the Secretary, MDOT, and the MTA in the administration of this Grant. The Administrator's designee for the project is named in Exhibit C to this Agreement.

13. PROJECT SETTLEMENT AND CLOSE-OUT

13.1. The MTA may utilize a final audit of the Project to determine the final financial settlement of the Project. If it is determined, as a result of audit, that the MTA has made payments in excess of the amount provided for in Section 5 above, ABERDEEN shall promptly remit to the MTA such excess amounts. ABERDEEN's covenant to repay such excess amounts shall survive the termination of this Agreement. ABERDEEN shall retain on file all records relating to the Project for three (3) years after project settlement and closeout. The retention period starts upon notification by the MTA that the federal project has been closed out on a statewide basis regardless of the close of the project period.

14. FEDERAL REGULATIONS

14.1. Exhibit B, Master Agreement for Federal Transit Administration Agreements, also a part of this Agreement, establishes the terms and conditions for ABERDEEN compliance with all applicable federal laws, regulations, and guidance.

15. APPLICABLE LAWS

15.1. ABERDEEN shall comply with all applicable Federal, State and local laws in expending Grant funds and in conducting the Project.

15.2. The term of this Agreement shall commence upon signing here of and shall terminate when all payments of the Grant, as defined in Section 5, have been paid.

16. SUSPENSION AND TERMINATION

16.1. MTA reserves the right to suspend or terminate all or part of the financial assistance herein provided and to terminate all or in part, if:

16.1.1. ABERDEEN fails to fulfill any of the terms of this Agreement;

16.1.2. ABERDEEN violates or fails any of the terms of this Agreement; or

16.1.3. Funds are not appropriated by the General Assembly of Maryland to fund this Grant.

1 16.2. Termination of this Agreement will not invalidate obligations properly incurred
2 by ABERDEEN prior to the date of termination if such obligations are unable to be
3 canceled. The acceptance of a remittance from MTA (on behalf of MDOT) of any or
4 all funds, or the closing out of MDOT and/or MTA's financial participation under
5 this Agreement, shall not constitute a waiver of any claim which MDOT and/or
6 MTA may otherwise have arising out of this Agreement. If, upon termination of this
7 Agreement, it is determined by the MDOT and/or MTA that funds are due to MDOT
8 and/or MTA, ABERDEEN shall promptly remit such amount to MTA within forty-
9 five (45) days following written notification to ABERDEEN. ABERDEEN's
10 agreement to remit any excess Grant funds to the MDOT and/or MTA shall survive
11 the termination of this Agreement.

12
13 16.3. In addition to the MDOT and/or MTA's remedies under Section 16, MDOT
14 and/or MTA may proceed to protect and enforce all rights available to it, by suit in
15 equity, action in law or by any other appropriate proceedings, any or all which may
16 be exercised contemporaneously with each other and all of which rights and
17 remedies shall survive termination of this Agreement.

18 17. **HOLD HARMLESS**

21
22 17.1. To the extent permitted by the laws of the State of Maryland, existing
23 appropriations or available insurance coverage and expressly subject to Section 5-
24 301 et seq. of the Court and Judicial Proceedings Article of the Annotated Code of
25 Maryland, also known as the Local Government Tort Claims Act, and except in the
26 event of the MTA's negligence or willful misconduct, ABERDEEN shall protect,
27 indemnify, and defend and hold harmless, and shall require in its agreements with
28 contractors and subcontractors that they shall protect, indemnify, defend and hold
29 harmless MTA, its officers, agents, employees, successors and assigns or contractors,
30 again stand with respect to any and all liabilities arising out of or in any way
31 connected with the exercise or performance by ABERDEEN (or its agents, officers,
32 employees, successors or assigns or contractors) of any of its rights or obligations
33 hereunder. Nothing in this Section 17.1 or any other provision of this MOU shall
34 constitute a waiver of any immunities that ABERDEEN may be entitled to under
35 law.

36 37 38 18. **MARYLAND LAW**

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40 18.1. The parties hereby agree that this Agreement shall be construed in accordance
41 with the law of the State of Maryland.
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2 **19. STATE DRUG AND ALCOHOL**
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4 MDOT and MTA and ABERDEEN shall comply with the State's policy concerning drug
5 and alcohol free workplaces, as set forth in COMAR 01.01.1989.18 and 21.11.08, and must
6 remain in compliance throughout the term of this Agreement.
7

8 **20. NON-DISCRIMINATION**
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10 20.1. MDOT, MTA and ABERDEEN certify that they prohibit, and covenant that they
11 will continue to prohibit discrimination on the basis of:
12

13 20.1.1. age, ancestry, color, creed, marital status, national origin, race or religious or
14 political affiliation, belief or opinion, or sexual orientation,
15

16 20.1.2. sex or age, except when age or sex constitutes a bona fide occupational
17 qualification; or
18

19 20.1.3. the physical or mental disability of a qualified individual with a disability.
20

21 20.2. Upon the request of the other party, MDOT, MTA or ABERDEEN will submit to
22 the other party information relating to its operating policies and procedures with
23 regard to age, ancestry, color, creed, marital status, mental or physical disability,
24 national origin, race, religious or political affiliation, belief or opinion or sex or
25 sexual orientation.
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28 **21. PROVISIONS**
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30 21.1. If any provision of this Agreement is held to be illegal, invalid or unenforceable
31 by a court of competent jurisdiction,
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33 21.1.1. such provision shall be fully severable;
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35 21.1.2. this Agreement shall be construed and enforced as if such illegal, invalid or
36 unenforceable provision had never comprised a part of this Agreement; and
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38 21.1.3. the remaining provisions of this Agreement shall remain in full force and
39 effect and shall not be affected by the illegal, invalid or unenforceable
40 provision or by its severance from this Agreement.
41

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43 **22. AMENDMENTS**
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45 22.1. Any amendments to this MOA signed by all parties, including amendments to the
46 Project Description or the Project Budget must be made by formal amendment to the
47 MOA, except that reallocations of funds among budget items which do not increase

1 the total amount of the Grant shall only require prior written authorization from the
2 MTA and the issuance of a new Project Budget.

3
4 **23. OFFER AND ACCEPTANCE**

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6 23.1. Execution of the MOA

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8 23.1.1. This MOA may be simultaneously executed in duplicate or several
9 counterpart originals, each of which shall be deemed to be an original having
10 identical legal effect.

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12 23.2. When dated and signed by the MTA, this MOA shall constitute an offer which
13 should be accepted by ABERDEEN by execution within sixty (60) days of such date.
14 The MTA may withdraw any offer not accepted within the above sixty (60) days
15 period.
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IN WITNESS WHEREOF, the Parties have executed this Agreement.

WITNESS:

CITY OF ABERDEEN

Monica Correll, City Clerk

By: _____
Patrick L. McGrady, Mayor

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Frederick C. Sussman, City Attorney

WITNESS:

MARYLAND TRANSIT ADMINISTRATION

Signature

By: _____
Holly Arnold, Administrator

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

**Robert S. Abrahams,
Assistant Attorney General
Maryland Transit Administration**