

**PLANNING AND DEVELOPMENT DEPARTMENT
MEMORANDUM 15-18**

DATE: June 8th, 2015
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: John Pick, City Manager *JP*
Brook Svoboda, Director of Planning and Development *BS*
SUBJECT CR-75 – Regional Transportation District’s (RTD) FasTracks 112th Avenue Station Area Master Plan (STAMP) Intergovernmental Agreement (IGA)

Attached to this memorandum is a resolution that, if adopted, would execute an IGA between the RTD and the City of Northglenn for the acceptance and use of funds to conduct a STAMP for the 112th Avenue Station.

BACKGROUND

In 2013, the Denver Regional Council of Government’s (DRCOG) awarded the City funds for creation of a STAMP through its Transportation Improvement Program (TIP). The total award for the project was \$150,000.00 which included \$120,000.00 of federal funds and a \$30,000.00 (20%) commitment to local matching funds. DRCOG scheduled the funds for distribution in fiscal year 2015. Part of the agreement for distribution of the funds is their routing through the RTD for administrative and project oversight through the completion of the project. Provisions for the use and distribution of funds are included in the attached Intergovernmental Agreement (IGA)(ATTACHMENT A). The IGA stipulates that the funds are to be expended by the City to pay for consultant work with reimbursement payments made back to the City by RTD.

Provisions of the IGA

This IGA establishes the local agency contribution amount for Northglenn as well as provisions to meet Disadvantaged Business Enterprise (DBE) and Small Business Office (SBO) goals as prescribed by federal legislation. The IGA sets forth the commitments from RTD and the City regarding financial obligations, responsibilities, coordination, and cooperation between both agencies with respect to the expenditure of funds for consultant services.

More specifically, the IGA addresses the following items:

- Funding provisions
- DBE goals
- Consultant requirements and general parameters for the selection process
- Reporting requirements
- Compliance with Federal grant requirements

Local Agency Contribution

The local agency contribution to this project is established through the provisions of DRCOG’s TIP and requires a minimum of 20%. Approximately 25% of the geographic area of the overall project impact area is located in the City of Thornton. The City of Thornton has agreed to cost share in the local match portion of the project award. A separate IGA will formalize their contribution of \$10,000.00 to the overall \$30,000.00 local match requirement.

BUDGET/TIME IMPLICATIONS:

The City’s required local match funds are budgeted in the 2015 budget. The City will initially pay the chosen consultant for work performed and then may begin request for reimbursement immediately thereafter.

The project is anticipated to begin this summer with final plan publication/adoption in 9-12 months.

STAFF REFERENCE

Brook Svoboda, Dir. of Planning & Development

bsvoboda@northglenn.org

303.450.8937

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-75
Series of 2015

Series of 2015

A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND THE REGIONAL TRANSPORTATION DISTRICT FOR THE 112TH AVENUE STATION AREA MASTER PLAN

WHEREAS, pursuant to the Colorado Constitution, Article XIV, § 18(2)(a) and C.R.S. § 29-1-201, *et seq.*, the Regional Transportation District (RTD) and the City of Northglenn may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for sharing of costs; and

WHEREAS, the Parties wish to promote regional sustainability by contributing to transit-oriented development sites that collectively will reduce regional per capita vehicle miles traveled, air pollution, greenhouse gas emissions, and water consumption; and

WHEREAS, the Parties desire to enter into an agreement regarding funding assistance for the development of a corridor analysis and Urban Center Studies (Plan) for a portion of the 112th Avenue Station Area Master Plan for the area designated as the 112th Avenue Station for the FasTracks North Metro Rail Line; and

WHEREAS, the Plan will create a vision of future land use and coordinated transportation infrastructure and will be comprised of a market study, infrastructure evaluation, alternative land use scenarios, and recommendations for strategic mobility planning, urban design, and development.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Intergovernmental Agreement between the City of Northglenn and the Regional Transportation District, attached hereto as **Exhibit 1**, to provide funding assistance for the development of a corridor analysis and Urban Center Studies Plan for a portion of the 112th Avenue Station Area Master Plan for the area designated as the 112th Avenue Station for the FasTracks North Metro Rail Line is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this ____ day of _____, 2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

ATTACHMENT A

**112th AVENUE STATION AREA MASTER PLAN
CITY OF NORTHGLENN**

INTERGOVERNMENTAL AGREEMENT

by and between

**CITY OF NORTHGLENN
11701 Community Center Drive
Northglenn, CO 80233**

and

**REGIONAL TRANSPORTATION DISTRICT
1600 Blake Street
Denver, Colorado 80202**

This Intergovernmental Agreement, made this ____ day of _____, 2015 (the Agreement), between the Regional Transportation District (RTD), a political subdivision of the State of Colorado, and the City of Northglenn municipality (or City), collectively referred to as the “Parties” or individually as “Party”, is to provide funding assistance for the development of a corridor analysis and Urban Center Studies (Plan) for a portion of the 112th Avenue Station Area Master Plan (Plan) for the area designated as the 112th Avenue Station for the FasTracks North Metro Rail Line. The project area is identified in Exhibit A and encompasses the area in and around 112th Avenue and York Street.

RECITALS:

The context for this Agreement is established in the Denver Regional Council of Governments (DRCOG) FY14-15 Station Area/Urban Center Studies Eligibility & Evaluation Criteria, attached hereto as Exhibit B, and the RTD TOD Policy dated September 21, 2010, attached hereto as Exhibit C.

This Plan needs to be practical, feasible, and satisfy the following key objectives:

- Provides planning guidance that enables and encourages transit-oriented development and results in a framework plan, vision elements, transformative projects, and implementation strategies for the future evolution and development of a dynamic and vibrant station area;
- Identifies needs and makes recommendations for infrastructure, mobility, parking, land use, open space, economic development, and other cultural/community investments that together can support access and connectivity to active land uses and transit functions; and
- Complies with and addresses all of the relevant points articulated within the criteria described by the DRCOG Station Area/Urban Center Studies Eligibility Criteria and the RTD TOD Policy.

Generally, the Parties wish to promote regional sustainability by contributing to transit-oriented development sites that collectively will reduce regional per capita vehicle miles traveled, air pollution, greenhouse gas emissions, and water consumption.

49 U.S.C. §5307 (Section 5307), provides funding for federal grants to assist states and local governmental authorities in financing capital and planning projects, job access and reverse commute projects, associated transit improvements, and certain operating costs. See generally Federal Transit Administration (FTA) Circular 9030.1E (effective 1/16/14). The FTA has designated RTD as a recipient for Section 5307 funds. DRCOG has managed the competitive process for the award of Section 5307 funds to eligible subrecipients including the City. The City has agreed to receive Section 5307 funds for fiscal year 2014 to provide Section 5307 eligible services pursuant to this Agreement. The City is a public entity otherwise eligible to become a direct recipient under Section 5307. The Plan is an eligible project under Section 5307 and FTA Circular 9030.1E.

As the Designated Recipient for Section 5307 funds, RTD is responsible for submitting a grant application to the FTA, contracting with Subrecipients for projects selected through DRCOG's competitive selection process, and ensuring that Subrecipients comply with FTA requirements. RTD and the City therefore desire to enter into this Agreement for RTD to pass through Section 5307 funding to the City as Subrecipient, and for the City to use such funding in full and complete accordance with all federal requirements and all other provisions of this Agreement, and with full, timely and accurate accounting and reporting by the City of such use.

NOW, THEREFORE, it is hereby agreed that:

1. Recitals, Exhibits. The Recitals set forth above and all exhibits attached hereto are incorporated herein by this reference.
2. Funding. Funding for the development of the Plan shall be provided through a Congestion Mitigation and Air Quality (CMAQ) grant (Grant) from the Federal Highway Administration (FHWA) through the FTA and administered by RTD. It is anticipated that the Grant available to RTD for the development of the Plan will be One Hundred and Twenty Thousand Dollars (\$120,000). In no event shall RTD be responsible for payment of funds for the development of the Plan in any amount greater than that received through the Grant. In no event shall federal funding exceed 80 percent of the net project cost. If the amount of Grant funds received by RTD is less than One Hundred and Twenty Thousand Dollars (\$120,000), the City may, at its discretion, (i) pay additional local match funds; (ii) reduce the scope of work for the development of the Plan; or (iii) terminate the Plan and this Agreement as set forth below. Unless the City determines to expend additional funds for the development of the Plan, the City shall contribute Thirty Thousand Dollars (\$30,000) in local match funds for the Plan. All local match funds must be provided from sources other than federal Department of Transportation (DOT) funds. Any additional funds required for the development of the Plan over and above the Grant funds received by RTD and committed local match funds shall be the responsibility of the City. The City shall use the funds solely for eligible purposes defined under Section 5307 and FTA Circular 9030.1E, as they may be amended, promulgated or updated from time to time during the term of this Agreement.

112TH AVENUE STATION AREA MASTER PLAN - Project Funding Summary:

Funding Source	Amount
Federal Grant Share	\$ 120,000
City Local Match Share	\$ 30,000
Total	\$ 150,000

3. Project Accounting. Expenditure of funds from the Grant will be documented separately by the City and Consultant (as defined in Section 5) to ensure dollars spent coincide with task deliverables assignable to each funding source.
4. Scope of Work. The scope of work (Scope) and cost for the development of the Plan are shown in Exhibit D. No changes to the Scope shall be made without prior written agreement between the Parties.
5. Consultant. The City shall issue a Request for Proposals to engage one or more consultants (Consultant) to develop the Plan. The City shall choose the Consultant after considering the recommendation of a committee consisting of representatives from the Parties. (Committee). The Parties shall each be entitled to review the form of Consultant's contract prior to award, and RTD shall advise the City of changes necessary to comply with the Grant or other RTD requirements, including but not limited to required contract clauses for federally assisted subcontracts and third party contracts as shown in Exhibit E. Compliance by City, Consultant and any other Plan contractors and subcontractors with RTD required contract clauses for federally assisted subcontracts and third party subcontracts, and other requested changes by RTD, shall be a condition of receipt of Grant funding through RTD for the development of the Plan. The City and Consultant shall be the parties to the consulting contract; and the City, as the contracting agency, shall have authority for administration of the Consultant's contract.
6. Review. The City shall manage all work performed by any Consultant for the development of the Plan. RTD shall have the opportunity to review and comment upon all documents, drawings, exhibits, etc., produced by the Consultant as part of the Plan, including preliminary drafts. RTD shall withhold payment of the last ten percent (10%) of the Grant funding until it has had an opportunity to provide comments on the final draft of the Plan, prior to adoption by the City. Any property or information provided by RTD for the Plan remains the property of RTD and shall be returned to RTD upon completion of the development of the Plan. RTD shall be entitled to receive electronic copies of all reports, drawings, data, and other material produced or collected in electronic format by the Consultant at no additional cost.
7. Meetings. RTD shall have the right to attend and shall receive notice of all formal meetings with the Consultant not less than forty-eight (48) hours in advance. RTD shall not give direction to the Consultant but shall submit all comments on the Consultant's work through the City.
8. Reporting Requirements. RTD shall be responsible for all Grant reporting for the development of the Plan. The City shall cooperate with RTD in providing information required by RTD for Grant reporting, and shall also require its Consultant and any other Plan contractors and subcontractors to provide such cooperation with RTD. The City shall be responsible for providing data to support the calculation of air quality benefits

derived from the Plan which is required as part of the federal CMAQ process. The methodology for the data collection on the air quality benefits will be provided by RTD in sufficient time in advance of the reporting deadline to allow the City to prepare the data for submission.

9. Invoices. The City shall invoice RTD for Consultant's work up to a maximum amount of One Hundred and Twenty Thousand Dollars (\$120,000) (if the Grant is in that amount as anticipated; otherwise up to the actual Grant amount). Such invoices shall only be for verified, eligible expenses consistent with the Grant award. City invoices may be submitted to RTD on a monthly basis effective March 1, 2015. Such invoices shall include the Consultant's invoice and other available background information regarding the work being invoiced. RTD shall reimburse the City only for actual Consultant work. Prior to utilizing the value of City staff time to meet the local match requirements contained herein, RTD shall review and approve the methodology for calculation of such utilization. RTD shall pay all approved invoices within thirty (30) days of receipt. If RTD disputes any invoice or portion thereof, it shall provide written notice to the City of the dispute within fourteen (14) calendar days of receipt of the invoice; otherwise the invoice is deemed to be approved by RTD. RTD shall not be liable for any financial contribution to the Plan funded pursuant to this IGA other than as set forth herein, unless previously authorized in writing. RTD shall not be responsible for paying Consultant bills directly. RTD's approval of or payment of an invoice shall not be considered a review of the City's federal funding compliance practices or an approval of such practices and shall in no way relieve the City of its responsibility to comply with any applicable federal requirements. In the event any amount paid by RTD under this IGA is later determined to be ineligible for federal funding by any federal agency, the Party responsible for the ineligible payments shall reimburse the Project the full amount of those funds and any costs, interest or penalties associated with the same.

10. Civil Rights Small Business Office.
 - a. It shall be the responsibility of the Parties to ensure that the compliance and implementation of Disadvantaged Business Enterprise (DBE) requirements are in accordance with 49 CFR Part 26 and RTD's FTA approved DBE Plan and Program. RTD shall be responsible for administering its own DBE program to set and monitor compliance with the goals on this project.
 - b. The RTD Small Business Office (RTD SBO) has established a DBE goal of ten percent (10%) of the total Agreement amount for this project. The City shall use this goal in evaluating, awarding and administering the Consultant contract.
 - c. It shall be the responsibility of the City to provide a DBE Liaison (Liaison) for the RTD SBO which can be a collateral duty. The Liaison will be responsible for contact information, submittals, invoicing/payment information, federal reporting information and interfacing with the RTD SBO to address various issues or concerns related to compliance with the DBE Program requirements.
 - d. It shall be the responsibility of the City to provide RTD SBO with a copy of all proposals received in response to the Request for Proposals at least two weeks in advance of selection of the successful Consultant.
 - e. It shall be the responsibility of the City to include the RTD Attachment A, included herewith as Exhibit G, in the RFP and in all executed contracts for Consultant

services. The proposers must complete and submit all forms to the City for the City to return to RTD SBO. All forms from the Attachment A must be submitted to RTD SBO prior to execution of the Consultant contract to ensure compliance with regard to RTD's DBE Plan and Program. Failure to submit completed forms may result in a proposer being deemed non-responsive. The prime Consultant must provide documented proof of good faith efforts using the RTD SBO documentation process should it be unable to meet the DBE goal.

- f. Immediately upon execution of the Consultant contract, the City shall provide a copy of the contract to RTD SBO. It shall be the responsibility of the City's DBE Liaison to ensure that RTD SBO reviews all amendments and change orders prior to their execution.
 - g. The City shall require the selected Consultant to submit both to the City's DBE Liaison Officer and to RTD SBO a copy of all DBE subcontracts and/or purchase orders within thirty (30) days of Notice to Proceed. Under no circumstances shall a DBE begin work without an executed subcontract or purchase order.
 - h. No DBE shall be replaced, removed, substituted or terminated without good cause as set forth in 49 CFR Part 26.53 (f) and pre-approval by RTD SBO. This includes reductions to scopes of services and/or subcontract values.
 - i. RTD SBO will directly contact the Prime Consultant and Sub-consultants for compliance monitoring, reviews and/or auditing purposes. The City shall require the Prime Consultant to cooperate in such RTD SBO contacts.
 - j. The City will withhold payment from the Prime Consultant for non-compliance with the DBE Program requirements and the provisions of this section as directed by RTD SBO.
11. Plan Recommendations. The Parties acknowledge this Agreement is for the development of the Plan only. The Parties commit that they will make reasonable efforts to secure approvals from their respective governing bodies to implement needed infrastructure improvements within their capital improvements program; adopt appropriate zoning code, master plan and other regulatory changes; and incorporate Plan recommendations into local ordinances, regulations or requirements governing development of the Plan area. Nothing herein commits either governing body to grant such approvals, and nothing herein commits either Party to fund any improvements identified in the Plan or any other adopted plans.
12. Third Parties. No person or entity not a party to this Agreement shall have rights hereunder.
13. Conflicts. No officer, member, or employee of RTD or the City, no members of the respective governing bodies of RTD or the City, and no other public officials or employees of RTD or the City during his or her tenure, or for one year thereafter, shall have any personal interest, direct or indirect, in any solicitation for services made pursuant to this Agreement or the proceeds thereof.
14. Termination; Suspension of Work. This Agreement may be terminated for any of the following reasons:

- a. Funds not Available. In the event that Grant funds required for funding of this Agreement are not made available, this Agreement shall terminate unless the City elects to pay additional local match funds or reduce the Scope of Work for development of the Plan as set forth above. Whether or not Grant funds are available, or whether or not City local match funds are sufficient to pay for the Plan costs, RTD is under no obligation to provide any funds for the Plan other than Grant funds actually received by RTD.
 - b. Termination for Mutual Convenience. The Parties may terminate this Agreement and terminate the development of the Plan if both Parties agree in writing that the continued development of the Plan would not produce beneficial results commensurate with the further expenditure of funds.
 - c. Termination of Contract for Cause. If through any cause, either Party should fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, agreements, or stipulations of this Agreement, the other Party has the right to terminate this Agreement by giving written notice of its intent to terminate. Said notice shall be delivered to the notified Party a minimum of seven (7) days in advance of the date set for termination. The notified Party shall have five (5) days after receipt of said notice of intent to terminate to respond with a proposal to cure the failure or violation. Approval of the proposal shall not be unreasonably withheld. This Agreement shall not so terminate if the proposal is accepted and the failure or violation is fully cured within a thirty (30)-day period after receipt of said notice of intent to terminate.
 - d. RTD's Right to Terminate Contract for Convenience or Default. RTD shall also have the right to terminate this Agreement for convenience or default, and the right to suspend the work, in accordance with provision FTA 8, Termination, of the FTA contract provisions attached as Exhibit E.
 - e. City's Right to Terminate Contract for Convenience. The City shall also have the right to terminate this Agreement for convenience by giving fourteen (14) calendar days written notice to RTD.
 - f. In the event this Agreement is terminated, RTD shall pay the City for all work previously authorized and satisfactorily performed up to and including the date of receipt by the City of the termination notice. If, however, the City has substantially or materially breached the standards and terms of this Agreement, RTD shall have any remedy or right of set-off available at law and equity.
15. Compliance with Federal Grant Requirements. The Parties acknowledge that development of the Plan will be partially federally funded. This Agreement and all subgrants, third party contracts and subcontracts are therefore subject to the FTA Master Agreement and all other applicable federal transit regulations, and all subgrants, third party contracts, and subcontracts must include as flow down provisions the FTA contract provisions attached as Exhibit E. A checklist of Required Third Party Contract Clauses is also attached as part of Exhibit E.
- a. The City shall at all times comply with all applicable FTA regulations, policies, procedures, reporting requirements, and directives, including without limitation those in FTA Circular 9070.1F, 49 C.F.R. part 19, and those listed directly or by reference in the current Master Agreement between RTD and FTA, as they may

be amended or promulgated from time to time during the term of this Agreement. In addition to all such requirements imposed directly upon the City, those requirements imposed upon RTD as a grantee or recipient are also hereby imposed upon the City, and those rights reserved by DOT, FTA or any other applicable agency are hereby reserved by RTD. The City's failure to comply with any and all such requirements shall constitute a material breach of this Agreement. The City may contact either RTD or FTA for a copy of the current FTA Master Agreement.

- b. Without limiting the foregoing, the following are specifically incorporated herein by this reference and shall govern this Agreement: (i) 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; (ii) 49 CFR Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (parts 18 and 19 are collectively known as the "common rule" or "common grant rule"); (iii) FTA Circular 9030.1E, Urbanized Area Formula Program: Program Guidance and Application Instructions; (iv) FTA Circular 5010.D, Grants Management – General; and (v) FTA Master Agreement. Those requirements imposed upon RTD as a grantee or recipient are hereby imposed upon the City to the fullest extent permitted by law, and those rights reserved by DOT, FTA or any other applicable agency are hereby reserved by RTD.
- c. All DOT-required contractual provisions as stated in FTA Circular 4220.1F are hereby incorporated by reference. The City will adhere to FTA's third-party procurement requirements as set out in FTA Circular 4220.1F and shall include contractual provisions as stated in FTA Circular 4220.1F in contracts funded in whole or in part by this Agreement for all such contracts as specified in FTA Circular 4220.1F. The incorporation of FTA-required terms has unlimited flow down.
- d. All FTA-mandated terms will be deemed to control in the event of a conflict with other provisions contained in this Agreement. The City shall not perform any act, fail to perform any act, or refuse to comply with any RTD requests which would cause RTD to be in violation of the FTA terms and conditions.
- e. The City shall not assign, transfer, or convey this Agreement, or any part thereof, without the prior written consent of RTD.
- f. The Federal Certifications and Assurances applicable to this Agreement are attached and fully incorporated by reference herein as Exhibit G. A Certification Regarding Lobbying form is included within Exhibit G: the form is applicable to federal grants exceeding \$100,000 and in such event must be completed by the City and returned to RTD prior to execution of this Agreement by RTD. Such certifications, assurances and terms are subject to updating by FTA; the City shall timely provide and comply with any additional FTA-required certifications and assurances. The City further understands and agrees that RTD shall perform System of Award Management (SAM) Checks to confirm that no federally excluded parties are participating in the contracts funded through this Agreement, and that reporting of exclusion in a SAM Check shall render a party ineligible to participate until such exclusion is lifted. The City shall comply with all applicable requirements of such certifications, assurances and terms, and shall

extend and require its contractors to extend all such requirements to each of the City's contractors, subcontractors, and any other third party participants whose work is funded in whole or in part by the Grant.

16. Audits. RTD, FHWA, FTA, or any auditor or contractor acting on their behalf shall have the right to audit the City's books and records and the books and records of the Consultant(s) performing the work for the Plan, and the contracts awarded for this Plan shall provide that RTD, FHWA and/or FTA shall have the right to audit the Consultant's and all of Consultant's subcontractors' books and records as they pertain to the development of the Plan for a period of three (3) years from the date of completion of the Consultant's work to develop the Plan.
17. Merger. This Agreement represents the entire agreement between the Parties and may be amended only in writing, signed by the Parties.
18. Disputes. Disputes shall initially be resolved by the Party Liaisons defined as: (i) first, RTD's Assistant General Manager for Planning and Development and the City's Deputy City Manager of City Development and (ii) second, RTD's General Manager and the City's Manager if the Party Liaisons set forth in subsection (i) above are unable to resolve the dispute. If none of the Party Liaisons are able to resolve the dispute, they shall agree to an impartial mediator to resolve the dispute.
19. Notices. All contacts, communications, and data required to be performed or exchanged pursuant to this Agreement will be sent to the following persons or their successors designated in writing:

For RTD:	For City of Northglenn:
Bill Sirois Manager of Transit Oriented Development Regional Transportation District 1560 Broadway, Suite 700 Denver, Colorado 80202	Travis Reynolds Planning Manager City of Northglenn 11701 Community Center Drive Northglenn, CO 80233
20. Term. This Agreement shall become effective upon the date of execution and will terminate upon completion and final acceptance of the Plan by the City, unless sooner terminated as provided in section 14.
21. Further Cooperation. The Parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of this Agreement, and will execute such additional documents as necessary to effectuate the same.
22. No Joint Venture. Nothing contained in this Agreement is intended to create a partnership, joint venture or joint enterprise between the Parties, and any implication to the contrary is hereby disavowed. This Agreement does not authorize any Party hereto to act as an agent of the other Party hereto for any purpose.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the _____ day of _____, 2015.

REGIONAL TRANSPORTATION
DISTRICT

CITY OF NORTHGLENN

By: _____
David A. Genova
Interim General Manager and CEO

By: _____
Joyce Downing
Mayor

Approved as to legal form for the Regional
Transportation District:

Approved as to legal form for the
City of Northglenn

Rolf G. Asphaug
Deputy General Counsel

By: Corey Hoffmann
City Attorney

ATTEST:

Johanna Small
City Clerk

Exhibit A – Project Area Map

112th Avenue Station Area Master Plan - General Study Area - Exhibit 1

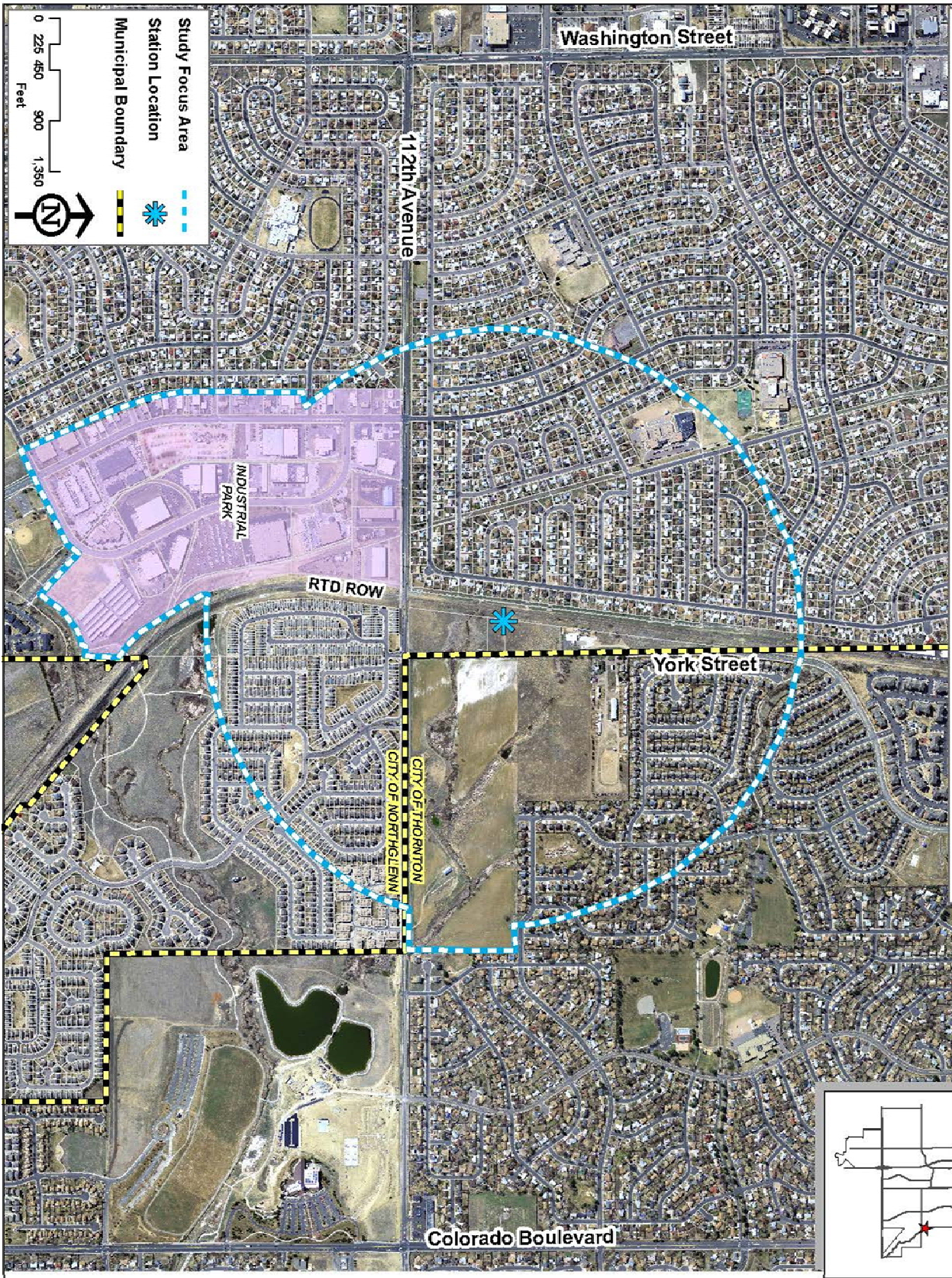


Exhibit B – DRCOG FY14-15 Station Area/Urban Center Studies Eligibility & Evaluation Criteria

FY 14-15 Station Area/Urban Centers Studies – Project Eligibility Rules

Station Area Master Plans or Urban Center Studies further implementation of the Tier 1 Base Rapid Transit System (Figure 16: 2035 RTP) at existing or future rapid transit station locations OR further implementation of urban centers identified in the Metro Vision 2035 plan. Such studies include the four types of planning studies described below. Sponsors are limited to two studies per fiscal year (i.e. each sponsor could have as many as two studies in FY14 and two studies in FY15).

1.) Corridor-wide studies focusing on:

- Maximizing multi-modal connectivity within transit corridors (including high frequency bus corridors that serve one or more urban centers – high frequency bus corridors have headways of 15 minutes or less) and at individual station areas/urban centers along the corridor
- Identifying barriers to station area development and increased transit use along the corridor – barriers could include current land use, zoning and development standards; parking availability and cost; inadequate supportive infrastructure, etc.
- Creating corridor-wide implementation strategies and/or an action plan identifying such things as needed plan updates, code revisions, and financial or regulatory incentive
- Corridor-wide studies must involve all the local jurisdictions and other major stakeholders along the corridor

2.) Creation and adoption of an “original” or updated station area master plan or urban center study. The scope for such a plan/study must include:

Stakeholder Engagement

- Outreach and engagement process that promotes the involvement of stakeholders in the study area, with efforts and accommodations made to include low to moderate income, minority, and elderly or disabled citizens.
- Active involvement by DRCOG, any relevant transit agency, and the public in the development of the plan.

Placemaking

- Identification (map) of type and density of future land uses, including public spaces
- Internal circulation plan(s) (maps or graphics) for motor vehicles, transit, bicycle and pedestrian and strategies to increase multi-modal connections with the larger region
- Identifying barriers (e.g. parking, zoning, infrastructure, etc.) to station area and/or urban center development
- Detailed development strategies that allow people of all ages, incomes and abilities the opportunity to access a range of housing, employment, and services
- A market or fiscal feasibility analysis that assesses plan recommendations and ensures the proposed plan is realistic and/or efforts to market the area to the development community in cases where a traditional market might not yet exist

Action Plan and Implementation Strategies

- A clear and realistic action plan to address key findings, including identification of necessary policy or regulatory changes (e.g. comprehensive plan, zoning, etc.); infrastructure improvements, and housing strategies.
- An implementation strategy that describes the organizational structure and process that will be used to ensure the action plan is implemented

Assessment and Impacts

- Indicators or metrics related to key strategies (e.g. housing affordability, multi-modal connectivity, leveraging private investment, environmental quality, etc.)
- Identification of the transportation impacts and air quality benefits of the proposed plan
- Current and future population, housing units, and employment estimates to the year 2040 (in five-year increments), including distribution of planned housing units by type and square feet of future non-residential development

3.) Additional “Next Step” plans/studies to further the development of the area if a station area master plan or urban center study was previously developed and adopted. Such plans/studies are only eligible if they:

- Are for planning activities that are clearly and unambiguously related to transportation infrastructure for use by the general public, AND
- Are for planning/design activities that do not conflict with any relevant transit agency’s planning/design activities as demonstrated by a letter of concurrence from the agency.

Next Step studies should be identified in an existing plan for the area and must further the existing plan – potential Next Step projects could include:

- Parking management studies
- Access management plans
- Corridor redevelopment plans
- Design studies and concepts for multi-modal infrastructure projects
- Street design standards/manuals
- Regional multi-use trail feasibility study
- Multi-use Trail/Bike Facilities plan
- Urban design and development guidelines
- Targeting housing strategies (e.g. to facilitate jobs-housing balance, affordable housing, etc.)
- Comprehensive wayfinding plans and strategies
- Traffic circulation studies (including traffic simulation model development)
- First/Last-mile mobility implementation, financing, partnership studies
- Transit circulator feasibility
- Transportation demand management studies and implementation activities

4.) Area Planning and Implementation Activities

Area Implementation Activities will promote innovative planning activities that can be replicated throughout the Denver region. Eligible projects will include multiple jurisdictions, station areas and urban centers aiming to study a common issue while focusing on local context and implementation strategies – the projects could include:

- Electric or natural gas-fueled vehicles facility planning
- Parking management planning and strategies
- Development and TOD financing strategies
- Workforce and affordable housing tools
- First/last-mile mobility implementation and financing studies

FY 14-15 Station Area/Urban Centers Studies - Evaluation Criteria

Metro Vision establishes the importance of urban centers in transit station areas in the region's efforts to reach regional goals and describes a desired future that includes healthy, livable communities connected by a robust multi-modal transportation network. These communities will have high levels of internal connectivity and be well-connected to the region at large. Additionally, they will support housing suitable for a wide range of incomes and the full spectrum of life stages; and use innovative planning, zoning and urban design strategies to promote higher density, mixed-use development, and transportation options.

DRCOG staff will determine eligibility based on the Project Eligibility Rules. The following evaluation criteria will be applied to all eligible submittals.

Project Evaluation – Regional Priorities

DRCOG staff will conduct an evaluation to identify priority projects in each eligible study type (i.e. corridor-wide, original studies, next steps, and area planning and implementation activities). A second evaluation (Project Impact) will also be conducted as described below. Regional priorities for studies are as follows:

1. Corridor-wide studies: Priority will be given to existing transit corridors and corridors included in the Tier 1 Base Rapid Transit System (Figure 16: 2035 RTP) that are not receiving corridor planning funds through the region's Sustainable Communities Initiative (SCI). Planned transit corridors included in the Tier 1 Base Rapid Transit System that are not receiving SCI corridor planning funds include:
 - I-225 LRT Corridor
 - North Metro Rail Line
 - Southeast Rail Extension
 - Southwest Rail Extension
 - Central Corridor Extension
2. "Original" or major updates to Urban Center/Station Area Plans:
 - Proposed study areas include a rapid transit station and include an urban center designated in *Metro Vision* will be given priority.
 - Urban centers designated as "existing" or "emerging" will be prioritized over "planned" urban centers.

3. Next Steps Studies

- Next steps studies that support completed station area plans for stations along the Tier 1 Base Rapid Transit System will be given priority.

4. Area Planning and Implementation Activities

- Studies, plans, tools plans or programs that directly advance Metro Vision, including RTP, policies (e.g. Urban Centers and Transportation policies) through regional/multi-jurisdictional planning and implementation will be given priority.

Project Evaluation – Project Impact

In addition to the Regional Priorities Evaluation a second evaluation criteria will be applied to proposed, eligible projects. Proposals will be evaluated by a project recommendation committee comprised of DRCOG staff, selected regional stakeholders with a variety of interests and expertise (e.g. transportation, design, environment, housing, etc.), RTD and local governments that have previously received funds, but are not seeking funds in FY14 or FY15. The committee will submit recommendations to the appropriate DRCOG committees and Board of Directors. Recommendations will reflect the regional priority evaluation described above and the project impact criteria described below.

Study Need (20%) - *Application will include an issue statement that clearly identifies the local /regional need of the study along with the desired outcomes.*

Potential of Study Area to Contribute to the vision, goals and policies embodied in Metro Vision (60%), including:

- Be active, pedestrian-, bicycle-, and transit-friendly places that are more dense and mixed in use than surrounding areas
- Promote regional sustainability by reducing per capita VMT, air pollution and greenhouse gas emissions
- Provide reliable mobility choices to all users: residents and visitors of all ages, incomes and abilities, as well as businesses that provide services and produce or sell goods.

Local Commitment and Ability to Implement (10% - proposed) – Urban Center/Station Area studies are the first step in a larger commitment to implement the plan and create positive changes at the local level that contribute to regional goals. Applicants will describe prior activities in support of quality growth projects in the study area as well as the sponsor’s ability to successfully complete the project in a timely fashion while involving project area stakeholders. Sponsor overmatch will also be considered.

Innovation and Feasibility (10% - proposed) – Proposed studies will be evaluated on project applicability, feasibility and innovation. Project evaluation will focus on:

- *Innovation in project scope*

- *Practicality/feasibility of scope of work and budget*
- *Coordination with other local governments, organizations, and non-profits*
- *Applicability and transferability of project outcomes locally and regionally*

Exhibit C – RTD TOD Policy

Exhibit C

RTD TOD Policy

Policy Adoption

The RTD Board of Directors passed and adopted the following Transit Oriented Development Policy on the 18th day of April 2006 (amended September 16, 2008 and September 21, 2010) as the framework to support TOD planning and development at existing and future stations throughout the district.

Definition of TOD

While TOD can have many physical forms, it generally includes the following design principles:

- More compact and dense development within a 5- to 10-minute walk around transit facilities compared to existing development patterns in the same area;
- A mix of uses—either horizontal or vertical—usually including residential, retail, and office employment;
- High-quality, pedestrian-oriented urban design and streetscapes.

By focusing compact development around transit stations, TOD capitalizes on the value of public infrastructure investments and promotes sustainability. These development synergies promote increased transit ridership and an integrated station environment with more passenger amenities. In addition to increased ridership and more passenger amenities, TOD is also a successful tool for promoting local economic development, helping communities plan for sustainable growth, and increasing the overall quality of life in a region.

Basis for TOD Policy

TOD's ability to increase transit usage while achieving valuable ancillary benefits for the region means that it plays a crucial role in fulfilling RTD's organizational mission: "To meet our constituents' present and future public transit needs by offering safe, clean, reliable, courteous, accessible and cost-effective service throughout the district."

RTD's mission is to provide transit service, and RTD recognizes that other public agencies and private developers are responsible for the region's built environment. However, RTD believes that increased coordination among public and private organizations in promoting TOD through land use planning, zoning, and the development process will result in higher-quality, sustainable communities that meet the varying objectives of all parties.

The Federal government has provided direction by recognizing livable communities and the importance of partnerships through the Partnership for Sustainable Communities, which includes the Department of Transportation (DOT), the Environmental Protection Agency (EPA), and the Department of Housing and Urban Development (HUD). The mission of the Partnership for Sustainable Communities is to provide citizens with access to affordable housing, more transportation options, and lower transportation costs, while protecting the environment in communities nationwide. Specifically, the Partnership for Sustainable Communities identified the following guiding principles in a June 16th, 2009 joint press release from DOT, EPA and HUD:

1. **Provide more transportation choices:** Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.
2. **Promote equitable and affordable housing:** Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation.
3. **Enhance economic competitiveness:** Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.
4. **Target resources to existing communities:** Target federal funding toward existing communities through such strategies as transit-oriented, mixed-use development and land recycling to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes.
5. **Coordinate and leverage federal policies and investments:** Align federal policies and funding to remove barriers to collaboration, leverage funding and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy.
6. **Value unique characteristics of communities, no matter their size:** Enhance the unique characteristics of all communities by investing in healthy, safe and walkable neighborhoods – rural, urban or suburban.

These federal livability principles provide a policy framework which helps guide federal funding decisions. As such, they provide important insight as to what RTD's federal partners consider to be important in fashioning better integration among land use, transportation and the environment.

RTD has the power of eminent domain, or condemnation, to carry out the purposes set forth in its enabling act (C.R.S. 32-9-161). Pursuant to its enabling act, RTD is authorized to operate a mass transportation system (C.R.S. 32-9-107). Therefore, RTD may exercise the power of eminent domain as necessary for the operation of its mass transportation system. RTD does not have authority to exercise its power of eminent domain for any other use, even if it serves a public purpose.

TOD Vision

RTD's vision for TOD is to encourage compact, mixed-use, pedestrian-oriented, high-quality development at and around transit stations consistent with federal requirements, regional goals, and community objectives—including sustainable growth—in partnership with stakeholders while operating an attractive, comfortable, and convenient transit system for the residents of the district.

Since there is no one-size-fits-all approach to TOD, RTD has identified four key goals to best achieve success:

1. Promoting multi-sector, cross-jurisdictional partnerships;
2. Encouraging livable communities and sustainable development that support the transit system;

3. Ensuring a hierarchy of multimodal access; and
4. Protecting and enhancing RTD's transit assets.

2.5 Goals and Strategies

Goal 1: RTD will foster relationships with local jurisdictions, regional agencies, private developers, local residents and businesses, and other stakeholders to support transit station area planning and TOD implementation.

Strategies to achieve this goal include:

- Providing RTD staff expertise and resources to local jurisdictions for station area planning and zoning
- Supporting efforts to encourage TOD by DRCOG, which include conducting research, sharing information, and providing planning assistance to connect transit service expansion to economic and community development that supports sustainable growth consistent with the DRCOG Metro Vision Plan
- Working with trade and advocacy organizations—such as the Urban Land Institute (ULI)—to promote TOD education and best practices
- Promoting and developing partnerships with private developers, public agencies and other stakeholders to advance TOD beyond planning to implementation

Goal 2: RTD will encourage livable communities and sustainable development that support the transit system.

Strategies to achieve this goal include:

- Collaborating with local jurisdictions on station area planning and TOD for areas within up to a 10-minute walk of stations
- Advocating for new development which generally meets the following characteristics in support of federal livability principles :
 - It is denser than existing development patterns in the surrounding area
 - It contains a mix of uses
 - It has a compact and attractive urban design
 - It promotes multimodal access so individuals need not rely on single occupant vehicles and allows easy pedestrian access to transit facilities
 - It supports a diversity of housing choices, including choices for low and moderate income individuals
 - It incorporates sustainable development strategies such as renewable energy, sustainable building materials, stormwater management, and comprehensive parking management.
- Promoting the development of "transit oriented communities" which embrace livability principles and truly integrate transit facilities with the surrounding community
- Promoting workforce development to enhance the strength and competitiveness of the local economy

- Encouraging local jurisdictions to adopt TOD supportive policies, plans and zoning for areas within a 10-minute walk of transit stations within their jurisdiction that provide a flexible framework for TOD and prevent development which does not support transit
- Participating in joint development projects which provide the opportunity to preserve ridership, build or improve infrastructure to support transit, have local jurisdiction support and embrace the principles of livable communities

Goal 3: RTD supports multimodal access to the transit system by all users.

Strategies to achieve this goal include:

- Supporting a hierarchy of access to rapid transit which considers the following modes in order of priority: pedestrians, bus riders, bicyclists, vehicles (short-term parking), and vehicles (long-term parking)
- Considering access needs beyond RTD property in the planning and design of transit stations, including:
 - Pedestrian connections to destinations within a 5- to 10-minute walk
 - Regional bus transit and bicycle connections
 - Vehicular access for the station catchment area
- Strategically managing the use and construction of RTD parking facilities to balance vehicular access and the opportunity for TOD to maximize ridership at stations and minimize the need for single-occupancy vehicle trips by transit riders outside of their trips to stations
- Optimizing RTD parking at stations by considering: proximity to Downtown Denver (less parking closer in), local feeder bus service (less parking with higher levels of service), and pedestrian connectivity (less parking with good pedestrian connections)

Goal 4: Protect and enhance RTD's transit assets and investments.

Strategies to achieve this goal include:

- Where appropriate, pursuing TOD as a means to increase the transit value of RTD-owned land near stations
- Encouraging local jurisdictions to support TOD by:
 - Utilizing best practices in TOD planning and implementation around transit stations
 - Encouraging station area planning early in the transit planning process, consistent with the Federal Transit Administration's (FTA) New Starts guidance for transit-supportive land uses
- Leveraging federal investment in the regional transit system, recognizing that there is significant competition among regions throughout the country for federal transit support, by:
 - Ensuring consistency of local policy with the FTA's guidelines for transit joint development, which mandate a transit element, economic development, new or enhanced inter-modal coordination, and non-vehicular capital improvements resulting in increased transit usage

- Encouraging consistency of local policy with the Federal Partnership for Sustainable Communities which promotes access to affordable housing, more transportation options, and lower transportation costs, while protecting the environment in communities nationwide.
- Where appropriate consider transitioning surface parking to structured parking, other transit-related facilities or TOD (including shared parking with consideration of RTD's parking management program and governing state legislation on parking) and in doing so preserve the operational efficiency of the existing transit facility
- Utilizing shared and joint-use parking when available to reduce parking costs and add ridership, including purchase of parking in private or public parking facilities on a long term lease or other means through a partnership arrangement with local governments or private developers. Shared and joint-use parking will be developed in coordination with the RTD parking management program and state legislation.
- Favoring the acquisition of permanent rights that meet transit requirements to ensure satisfactory continuing control of RTD property
- Utilizing joint development as a means to protect and enhance station ridership and build or improve infrastructure needed to support transit and the development of livable communities.
- Where land sales are pursued for joint development projects, ensuring that there will be continuing utilization of the land for TOD purposes
- Recognizing that RTD will only acquire property for transit purposes (if opportunities arise when those transit purposes can be met as required, and the potential for locally supported and entitled developments at or near RTD stations emerge), RTD will consider such development provided that the proposed development: (i) meets the transit purpose for which the property was required; (ii) complies with all federal, state and local laws; (iii) enhances transit use; and (iv) supports the principles of livable communities.

Exhibit D – Scope of Work

Exhibit D

CONSULTANT'S SCOPE OF WORK

PROJECT OVERVIEW

Project Schedule

The selected firm shall complete the below mentioned items no later than December 2015.

Project Overview

The North Metro - 112th Avenue Station Area Master Plan (STAMP) aims to create a vision of future land use and coordinated transportation infrastructure in proximity to the planned FasTracks station. This vision will guide future land use decisions in proximity to the station to ensure that land uses and transportation network decisions are transit supportive and coordinated with the City of Thornton. This coordination and planning will provide an "access-rich" development environment in and around the station.

Background

The planned station area is located on the east side of the City of Northglenn adjacent to the City of Thornton's municipal limits at 112th and York Street. The STAMP will focus on traditional 1/4 mile and 1/2 mile radii direct influence areas and broader, indirect influence areas further from the station (Exhibit 1). These indirect influence areas will incorporate pedestrian, bike, and road network connections providing access to the station as well as transportation services such as forms of paratransit that are critical to station access and ridership. Many of these indirect influence areas could be upwards of 1-mile from the station or determined by the influence of other stations to the north and south (Eastlake & 104th Avenue Station).

A coordinated planning effort between the two cities is critical to ensure the optimization of potential Transit Oriented Development (TOD) opportunities in proximity to the site and aid in maximizing the utility of the planned transit infrastructure. The City of Northglenn is the lead agency for administration of the plan and has established a partnership with the City of Thornton in development of the plan. The project is financed by a combination of federal Transportation Improvement Program (TIP) funds, awarded by the Denver Regional Council of Governments (DRCOG) and matching funds from the cities of Northglenn and Thornton.

Further, a coordinated planning operation and station area master plan for the 112th Avenue Station is critical to the success of the North Metro FasTracks line. The examination and adoption of policy documents outlining plans for each of the stations on the line will help ensure maximized ridership and longterm utilization of the transit infrastructure. As many of the other stations are undertaking or have published station area master plans, the 112th Avenue STAMP will consult those plans (primarily Eastlake and 104th Avenue) to ensure a consistent station area utility along the North Metro Line and uncover further TOD opportunities.

The study will provide area stakeholders with an opportunity to provide feedback on their perspective for the varying connections to the transit area, optimized means of access to the station and the future uses in proximity to the transit infrastructure. In pursuit of stakeholder input, an extensive community outreach and engagement process (including Spanish translation) is requested as part of the plan.

Anticipated stakeholders are as follows:

- Citizens from the surrounding study area
- Representatives from the Fox Run Home Owner's Association
- Representatives from Northglenn's Industrial Park
- Landowners of currently undeveloped properties in proximity to the station area
- Regional Transportation District (RTD) representatives
- Possible leaders from associations like the Urban Land Institute or the Denver Transit Alliance
- Staff representatives from the cities of Thornton and Northglenn
- Elected/Appointed Leadership from the respective cities (Council, Planning Commission, Urban Renewal Authority)

Project Objectives

1. The project aims to create a meaningful, well communicated document that will influence policy and decisions regarding land use and transportation in the station influence area.
2. The project aims to conduct a thorough outreach process providing stakeholders with opportunities for input regarding important elements of the plan.
3. The project aims to coordinate communication, information, policy, and the desires of the leadership of both the City of Thornton and the City of Northglenn.
4. A thorough review of existing documents, plans, and technical reports that may impact the station area.
5. The project aims to understand the future market demands for and conditions that may foster Transit Oriented Development in the project study area.
6. The project aims to better understand the condition and capacity of infrastructure in the surrounding area that can help predict the future costs of development at opportunity sites within the station influence area.
7. The project aims to examine mobility, to and from the station, from all forms of transportation in an effort to promote transit use and enhance access to the station.
8. The project aims to examine and promote land use policy, urban design standards, and development strategies that adhere to known successful strategies at other station areas, both regionally and nationally.
9. The project aims to outline implementation strategies that various key stakeholders can enact in pursuit of development outlined in the plan.

Proposal Requirements

The Consultant shall provide three (3) copies of the proposal with a CD including the proposal in .PDF format. Additional explanatory and supplemental materials may be submitted under separate cover, if desired. Fee Schedule and Resumes should be placed in the appendix.

- A. **Introduction/Executive Summary** – Introduce your firm and the project team, including sub-consultants/contractors. Provide an overview of your firm's experience specific to the scope of work.
- B. **Proposal** – Provide a detailed approach on how your firm will accomplish the scope of work requested. Explain how your firm will coordinate and communicate with City staff. Identify your firm's protocol for managing budget and keeping the City informed of potential scope creep.

- C. **Project Experience** – Provide three (3) reference projects that are most similar to the scope of work being sought by this solicitation. Identify three (3) references that can be contacted relative to your reference projects.
- D. **Specialized Services** – Describe the specialized or value added services that your firm can provide relative to the scope of work. Identify a project where this service was utilized and successfully implemented.
- E. **Fee Schedule** – Include a 2015 fee schedule that will be applicable to all charges (time, materials, overhead, and mark-up).
- F. **Individual Experience** – Provide resumes for the Principal In Charge, the Project Manager, and all other personnel assigned to the project. Resumes should be formatted identically and be placed at the end of the proposal in an appendix. Please include a schedule of personnel deemed responsible and directly involved in the various stages of review.
- G. **Proposal** – The proposal submitted is not intended to be an expensive, elaborate document. It should be well composed for simplicity and ease of understanding. Maximum length is ten (10) pages, not including resumes and appendices.

SCOPE OF SERVICES

I. **Communication Strategy**

The City seeks a comprehensive communication strategy that will solicit feedback from area stakeholders, use gathered information to influence the plan, and convey the final version in a meaningful manner. Based on the extensive experience gained through the creation of other Station Area Master Plans throughout the region, the City is electing to provide the Consultant with significant latitude to propose strategies that are tailored to targeted populations in the general station area and proven to be impactful in providing communication input.

As mentioned, RTD, in conjunction with their partner RRP, conducted early planning, investigation, and extensive design with regard to bringing the transit infrastructure to the station area. The station's physical location requires a coordinated planning effort between the two cities to ensure the optimization of potential Transit Oriented Development opportunities in proximity to the site and aid in maximizing the utility of the transit infrastructure. The City of Northglenn intends to be the lead agency for administration of the plan and has established a partnership with the City of Thornton in development of the plan. To that end, the consultant will be asked to propose a municipal coordination approach within the context of the overall community outreach strategy.

As part of the overall communication strategy, it is expected that the Consultant will develop a comprehensive, inclusive, and mutually agreed upon set of guiding principles for the project.

It is requested that the Consultant provide Spanish translation for advertisement, presentation materials, and discussion regarding all public meetings. In addition, digital materials and opinion/feedback methods should be offered in translated Spanish. The overall community engagement plan should include, at a minimum, outreach to the following distinct groups and should address the outlined topics below.

Overall Community Engagement

- Community Involvement
 - Digital material strategy
 - Opinion/Feedback strategy
 - Public meeting strategy
- Council Involvement
 - Council meeting strategy
- Direct stakeholders - Task Force/Steering creation and management

- Municipal coordination between Thornton and Northglenn

Deliverables:

A documented community engagement plan that highlights methods and measures used to engage the public, stakeholders, and decision makers. The plan should summarize the methods used, the feedback received, and any influence that public input had on the final version of the plan. The community engagement plan summary should be incorporated into the overall Station Area Plan.

II. Plan Preparation

a. **Background Information**

This phase will ensure that the project has all available background data, information, and plans to establish a baseline collection of information from which to prepare and influence analysis requested in the remaining sections outlined in this scope of work.

In addition to the initial list of documents provided in the project background, that pertain to the station area, the following is a list of information that the City will provide:

- 2010 City of Northglenn - Comprehensive Plan Update
- City of Thornton 2012 Comprehensive Plan
- North Metro Fastracks, Draft Environmental Impact Study (DEIS),
- Denver North Metro Commuter Rail, Development Oriented Transit Analysis
- 112th Avenue Corridor Design Study

The City has a relatively firm grasp on the demographics in the surrounding area based on traditional sources of data (2010 Decennial Census, American Community Survey – 5 year average product etc...). In addition to a summary of basic demographics in the station influence area, the City is requesting that the consultant prepare additional data that summarizes the profile of populations in the area that may be transit dependent as well as opportunity populations that may change their commuting patterns once transit infrastructure is in place. This request for alternative data sources may come in the form of commercially available segmentation data, DRCOG or Census based Travel Behavior data, DRCOG commuting pattern models, or other forms.

The background information should, at a minimum, address the following topic areas:

- i. Demographics
 1. Traditional source information
 2. Information regarding Transit Dependent and Transit Opportunity Populations
- ii. Surrounding area land use information
 1. Existing land use
 2. Current zoning and available zoning districts
 3. Additional miscellaneous land use policies, constraints, overlays etc..

Market Study & Industrial Lands Study

The City is requesting a market study of the surrounding area to establish land use demand in proximity to the station and an Industrial Lands Study:

- Existing market for TOD related development;
- The long term market for TOD development;
- Current opportunities in Transit Supporting Multi-Family housing including segmentation of the housing spectrum. The analysis should include an understanding of the demand for various housing products including, but not limited to, work-force housing, market rate housing, senior housing, and low-income housing; segments absent from the market.
- An Industrial Lands study to examine the current and future market for the Industrial properties in the southwest quadrant of the station area. This portion of the study will inform the plan regarding the potential of transit oriented redevelopment on existing properties currently zoned and used as I-2 in close proximity to the station area. The study should investigate the changing environment of manufacturing and industrial producing properties in the region focusing on the demand for I-2 zoned property or another less intensive designation that may benefit from the proximity to the station area. The study should include the current inventory of existing uses in the I-2 zoned properties south of the station area and determine appropriate future zoning classifications and land use in the context of the station area proximity. The consultant should provide the City with an assessment as to the importance of the Industrial zoned properties to the City of Northglenn's local economy and a comparison of the impacts to the City of the lands being used under alternative land uses.

Deliverables

A summary chapter or report regarding the baseline/background information, outlined above, for the project area. The summary report should be incorporated into the overall Station Area Plan.

III. Infrastructure Evaluation

Through the station and transit infrastructure design process, the project team learned a significant amount of information regarding infrastructure in direct proximity to the

station. Remaining unknown infrastructure variables exist at points further from the station in the station influence area. The consultant will be charged with summarizing the known information regarding infrastructure in direct proximity to the station area and inventorying infrastructure information within the station influence area within the Cities of Thornton and Northglenn

- iii. Infrastructure Inventory
 - 1. Transportation network
 - a. Including road, trail, and sidewalk networks (including bicycle routes and lanes)
 - b. Bus and paratransit operations
 - 2. Municipal Utility Infrastructure
 - a. Water
 - b. Sanitary
 - c. Stormwater

Infrastructure capacities for development will play a critical role in development potential of the remaining vacant land in the station area and the redevelopment potential of certain station area properties. The consultant will be charged with investigating the status and capacities of infrastructure in the larger station influence area. Evaluation should take place in the context of plans for desired or probable land uses in the station influence area and within specific opportunity parcels.

Stormwater and drainage issues on the properties in direct proximity to the station area (south & east) are known constraints to development. The consultant will be tasked with assembling various published studies and information to estimate remedies for the stormwater issues (including costs of infrastructure improvements) and provide implementation strategies for consideration.

Infrastructure information should include estimated capacities, and estimated improvement costs to accommodate proposed land use configuration for the following areas.

- i. Water
- ii. Sanitary
- iii. Stormwater
- iv. Roadway network

Deliverables

A summary chapter or report regarding the utility information, outlined above, for the project area. The report should build upon the information captured in the background data and highlight capacity deficiencies based on proposed land use scenarios. Additionally the report should outline estimated development costs for system improvements. The summary report should be incorporated, as a chapter, into the overall Station Area Plan.

IV. Strategic Mobility Planning

Access to and from the station area is a major focus of the study. The station resides adjacent to the 112th Avenue arterial and York Street, however, 112th does not fully function as arterial. 112th Avenue does not connect freely, east and west, across the City of Northglenn and therefore automobile access from the west is challenging. The application of multiple-modes and adequate safe routes to the station are critical for

sustaining transit. Investigation of connections between modes of transportation are a critical element of the plan as they will act to feed the station area and provide maximum ridership and use. Examination of these connections will transcend the station planning area geography to investigate wider connections that will serve the station and provide integrated access.

The consultant will be asked to provide analysis and investigation into the following topic areas with prioritization of implementation strategies.

- i. Bike/Ped Trail Connections
- ii. Bus Operations Integration
- iii. Call-n-Ride Integration
- iv. Alternative TDM strategies providing linkages to the station area (bike/car share, neighborhood Eco-Pass etc..)
- v. Ped/Bike/Transit/Urban design standards for new construction
- vi. Implementation and Strategies - Prioritization

Deliverables

A summary chapter or report regarding the mobility considerations, outlined above, for the project area. The report should build upon the information captured in the background data and highlight critical improvements that should be considered for the project area. Additionally the report should outline operational improvements to existing services and innovative approaches to alternative strategies that would provide the highest levels of accessibility. The summary report should prioritize these strategies and assign responsible parties for implementation. The summary report should be incorporated, as a chapter, into the overall Station Area Plan.

V. Land Use Planning

The remaining vacant land and potential redevelopable land in the station area present the greatest opportunity for Transit Oriented and Transit Supporting land use development. Using the results of stakeholder input, collected background information (including the market study), the utility analysis, and other discovered information, the Consultant will be asked to examine elements of urban design, land use regulation, and development strategies that can yield 2-3 land use scenarios for consideration and feedback. From these scenarios it is expected that the Consultant will lead the Direct Stakeholders in an exercise to promote a preferred alternative for the station area that would ultimately be endorsed by decision makers of the two communities.

The vacant parcel directly south of the station in the City of Northglenn presents one of Northglenn's lone opportunities for vacant land development that could support transit. The City would like to explore scenarios that include purchase of the property and development preparation proposals. The City seeks a better understanding of the enhanced development control that an ownership scenario could yield and seeks to understand the benefits of controlling the property and using it as a catalyst for development in the area.

The Land Use Planning section should include, at a minimum, a discussion and analysis of the following elements:

- i. Analysis of the appropriate zoning and land use regulations for the station influence area.

- ii. Urban Design elements for new development and redevelopment
- iii. Timing and phasing considerations within the context of the market study and North Metro FastTracks transportation infrastructure delivery.
- iv. Development preparation/acquisition strategies for the land adjacent to the station area.
- v. 2-3 alternative development scenarios with associated analysis regarding market feasibility, development cost, development policy requirements, and other associated considerations.

Deliverables

A summary chapter or report regarding the land use considerations, outlined above, for the project area. The report should build upon the information captured in the background data and analyze land use scenarios at the various opportunity parcels in the surrounding area. The summary report should outline 2-3 alternative development land use scenarios for the opportunity parcels in the project area and delineate a preferred development scenario. The preferred scenario should outline the various required implementation steps to realize the plan and assign responsible parties for implementation. Additionally the report should outline various development preparation/acquisition strategies that the City may pursue for the land directly south of the station platform.

The summary report should be incorporated, as a chapter, into the overall Station Area Plan.

VI. Final Documents

The City anticipates that the above information would be compiled into a master document that will act as the overall plan for the station area. The master document would include information outlined above compiled in an orderly, readable, manner. In addition, the City is requesting an abridged/executive summary version of the plan for general public consumption.

- a. Station Area Master Plan document (full version)
- b. Station Area Master Plan (public, abridged version)
- c. All versions delivered in digital format, reproducible hard copies, and an editable digital version.

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION REQUIREMENTS

The goal of 10% Disadvantaged Business Enterprise (DBE) Participation shall apply to this contract.

Exhibit E – FTA Terms

Exhibit E to Section 5307 Agreement

FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

ALL FTA ASSISTED THIRD PARTY CONTRACTS AND SUBCONTRACTS

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Provisions 1 through 7 apply to ALL CONTRACTS

FTA 1 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

- A. RTD and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to RTD, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.
- B. Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

FTA 2 FALSE OR FRAUDULENT STATEMENTS OR CLAIMS - CIVIL AND CRIMINAL FRAUD

- A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution or performance of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, 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 Contractor to the extent the Federal Government deems appropriate.
- B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
- C. Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA 3 ACCESS TO THIRD PARTY CONTRACT RECORDS

- A. For a period of three years following Contract closing, the Contractor shall maintain, preserve and make available to RTD, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives, access at all reasonable times to any books, documents, papers and records of Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or his or her authorized

representatives, including any project management oversight contractor, access to Contractor's records and sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309 or 5311.

- B. The Contractor shall maintain and RTD shall have the right to examine and audit all records and other evidence sufficient to reflect properly all prices, costs or rates negotiated and invoiced in performance of this Contract. This right of examination shall include inspection at all reasonable times of the Contractor's offices engaged in performing the Contract.
- C. If this Contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement. The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.
- D. "Access to Records and Reports" applies with equal force and effect to any subcontractors hired by the Contractor to perform Work under this Contract. The Contractor shall insert this provision in all subcontracts under this Contract and require subcontractor compliance therewith.

FTA 4 CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current Master Agreement between RTD and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract. Contractor may contact either RTD or FTA for a copy of the current FTA Master Agreement.

FTA 5 CIVIL RIGHTS (TITLE VI, ADA, EEO)

The following requirements apply to the underlying Contract:

- A. Nondiscrimination- In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying Contract:
 - 1. Race, Color, Creed, National Origin, Sex- In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by

Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Contract. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

2. Age- In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
3. Disabilities- In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- C. Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

FTA 6 DISADVANTAGED BUSINESS ENTERPRISES (DBE)s

- A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises (DBEs) in Department of Transportation Financial Assistance Programs. The national goal for participation of DBEs is 10%.
- B. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract or such other remedy as RTD deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The Contractor is required to pay its subcontractors performing Work related to this Contract for satisfactory performance of that Work no later than 5 days after the Contractor's receipt of payment for that Work from RTD. In addition, the Contractor shall return any retainage payments to subcontractors within 5 days after incremental acceptance of the subcontractor's Work by RTD and Contractor's receipt of the partial retainage payment related to the subcontractor's Work.

- D. The Contractor must promptly notify RTD, whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of Work. The contractor may not terminate any DBE subcontractor and perform that Work through its own forces or those of an affiliate without prior written consent of RTD.
- E. RTD sets an annual overall goal for the participation of disadvantaged business enterprises. This Contract contains a minimum level of DBE participation, and is awarded in reliance upon the Contractor's representations that it can attain such DBE participation levels in addition to all other of Contractor's representations, certifications and submittals as required by Section IV, Attachment A, of this Contract.

The Contractor shall cooperate with RTD with regard to maximum utilization of DBEs and will use its best efforts to insure that DBEs shall have the maximum practicable opportunity to compete for subcontract work under this Contract. The Contractor shall assist RTD in verifying compliance with the DBE requirements of this Contract, if any, by submitting status reports itemizing payments to all DBE subcontractors with each monthly request for payment. Upon Contract completion, the Contractor shall submit a summary of payments, by subcontract, made to all subcontractors to RTD's Business Opportunity and Outreach Officer.

FTA 7 INCORPORATION OF FTA TERMS

The provisions of this Contract include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as may be amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any RTD requests which would cause RTD to be in violation of the FTA terms and conditions. The incorporation of FTA terms has unlimited flow down.

Provision 8 applies to AWARDS EXCEEDING \$10,000

FTA 8 TERMINATION

- A.** For Convenience. RTD may, by giving at least 14 days' written notice to the Contractor, terminate this Contract, or suspend performance hereunder, in whole or in part and at any time for RTD's convenience. The Contractor shall be compensated solely for Work satisfactorily performed prior to the effective date and time of termination or suspension. The Contractor shall have no right to recover lost profits on the balance of the Work, or any other measure of damages.
- B.** For Default. RTD may declare default in the Contractor's performance of any term of this Contract by giving seven days' written notice to the Contractor specifying with particularity the basis for such default. The Contractor shall deliver a response in writing to RTD within five days of Contractor's receipt of RTD's default notice setting forth a reasonable proposal to cure or to prevent repetition of the default. If the Contractor fails to timely respond to the notice of default, fails to cure the default, or if the default occurs again on any Work performed (or which should have been performed) during the remainder of the Contract term (including options), RTD shall have the right to terminate this Contract for default by written notice. RTD is not required to provide subsequent written notices of default for recurring instances of default already brought to the attention of the Contractor in a written notice. In the event of such termination for default, the Contractor shall be compensated solely for Work satisfactorily performed prior to the effective date and time of termination. RTD may proceed with the Work by contract or otherwise and the additional cost to RTD of completing the Work shall be deducted from any sum due the Contractor. If after termination for default it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for RTD's convenience. The foregoing shall be in addition to any other legal or equitable remedies available to RTD.
- C.** Suspension of Work. RTD may suspend the performance of the Contractor by giving the Contractor seven days' written notice. Upon Contractor's receipt of notice of suspension of Work, the Contractor shall perform no further Work and RTD will not be required to reimburse the Contractor for any costs incurred subsequent to Contractor's receipt of notice of suspension and prior to notice to resume Work, if any. Suspension of Work may be in whole or in part, as specified by RTD. The Contractor shall continue to submit invoices for Work performed. If after six months of suspension, RTD has not given the Contractor notice to resume Work, the Contractor is entitled to request in writing that RTD either (1) amend the Statement of Contract Cost or (2) terminate the Contract pursuant to "Termination for Convenience." If suspension for more than six months is not due in any part to the fault of the Contractor, RTD shall be required to amend or terminate the Contract. No amendment to the Statement of Contract Cost shall be made under this Article if suspension, delay, or interruption is due to the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.

Provision 9 applies to AWARDS EXCEEDING \$25,000

FTA 9 DEBARMENT AND SUSPENSION

- A.** If this Contract is valued at \$25,000 or greater, it is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.
 - B.** Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.
 - C.** By accepting this Contract, Contractor is certifying as follows:
 - 1.** The certification in this clause is a material representation of fact relied upon by RTD. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to RTD, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Contract.
 - 2.** Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
-

Provisions 10 through 11 apply to AWARDS EXCEEDING THE SIMPLIFIED
ACQUISITION THRESHOLD (\$100,000)

FTA 1. FTA 10 BUY AMERICA

(for Rolling Stock, Construction and Materials/Supplies)

The Buy America requirements apply to all contracts for construction, the acquisition of goods, or the acquisition of rolling stock that are valued at more than \$100,000.

The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

FTA 11 RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

A. Except as otherwise provided in this Contract, any dispute arising hereunder concerning a question of fact that is not disposed of by agreement shall be decided by RTD's General Manager, or his or her delegate. Contractor will be notified of the decision in writing. To the extent allowable by law, any such decision shall be final, conclusive, and not subject to judicial review unless shown to be fraudulent, capricious, arbitrary, or so grossly erroneous as to imply bad faith.

B. This Article does not preclude judicial consideration of questions of law. Nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

C. All costs, expenses and attorney fees incurred by the Contractor in connection with any appeal, suit or claim regarding a dispute that is brought by the Contractor shall be paid by the Contractor.

D. The duties, obligations, rights, and remedies provided by the Contract shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

E. Unless otherwise directed by RTD, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Provisions 12 through 14 apply to AWARDS EXCEEDING \$100,000 BY STATUTE

FTA 12 LOBBYING

Contractors and all subcontractors who apply or bid for an award of \$ 100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not use and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. § 1352. Such disclosures are forwarded from tier to tier up to RTD. Contractor should contact RTD for the appropriate certification or retrieve a copy from the FTA Best Practices Manual at <http://www.fta.dot.gov/library/admin/BPPM/>.

FTA 13 CLEAN AIR

- A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* Contractor agrees to report each violation to RTD and understands and agrees that RTD will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA 14 CLEAN WATER

- A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* Contractor agrees to report each violation to RTD and understands and agrees that RTD will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
 - B. Contractor also agrees to include these requirements in each subcontract exceeding \$ 100,000 financed in whole or in part with Federal assistance provided by FTA.
-

FTA 2. FTA 15 CARGO PREFERENCE

(Rolling Stock, Construction and Materials/Supplies)

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

The Contractor agrees:

1. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
2. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading 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 the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to RTD (through the Contractor in the case of a subcontractor's bill-of-lading);
3. to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

FTA 16 FLY AMERICA

In the performance of Contracts that utilize FTA participation in the cost of international air transportation, Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S.-Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S.-Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

FTA 3. FTA 17 CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS–BACON ACT

(Awards that exceed \$2,000)

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The RTD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the RTD may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a

plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the RTD for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the

required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for

less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland "Anti-Kickback" Act requirements - The contractor shall comply with the requirements of Section 1 of the Act, as amended, 18 U.S.C. § 874; Section 2 of the Act, as amended, 18 U.S.C. § 3145; and U.S. DOL regulations "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 CFR Part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

FTA 18 CONSTRUCTION EMPLOYEE PROTECTIONS – CONTRACT WORK HOURS & SAFETY STANDARDS ACT

(for construction contracts that exceed \$100,000)

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - The RTD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

FTA 19 CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT

Compliance with Copeland “Anti-Kickback” Act (“Act”) requirements - The contractor shall comply with the following requirements:

(a) Section 1 of the Act, as amended, 18 U.S.C. § 874, applies to all Contracts:

(i) Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants

from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both;

(b) Section 2 of the Act, as amended, 18 U.S.C. § 3145, applies to construction and repair Contracts exceeding \$2,000:

(i) In General.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(ii) Application.— The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001; and

(c) U.S. DOL regulations “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 CFR Part 3, which are incorporated by reference in this contract.

(d) For additional requirements of the Act not specified in this Article, see preceding Article FTA 17 – Construction Employee Protections – Davis Bacon Act.

FTA 20 BONDING FOR CONSTRUCTION ACTIVITIES EXCEEDING \$100,000

Bid Bond Requirements (Construction)

(a) Bid Security - The Penal amount of the Bid Security shall be 5% of the total Bid Amount.

A Bid Bond must be issued by a fully qualified surety company acceptable to RTD and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by RTD to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of RTD.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of RTD, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefore.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by RTD as provided in "Bid Security" of the Instructions to Bidders shall prove inadequate to fully recompense RTD for the damages occasioned by default, then the undersigned bidder agrees to indemnify RTD and pay over to RTD the difference between the bid security and RTD's total damages, so as to make RTD whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the RTD determines that a lesser amount would be adequate for the protection of the RTD.
2. The RTD may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The RTD may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
 - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
 - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (iii) Two and one half million if the contract price is more than \$5 million.

If the original contract price is \$5 million or less, the RTD may require additional protection as required by subparagraph 1 if the contract price is increased.

FTA 21 SEISMIC SAFETY

If this Contract for professional services involves the design of a new building or addition to an existing building, the Contractor agrees that any such new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Provision 22 applies to NONCONSTRUCTION ACTIVITIES

**FTA 4. FTA 22 NONCONSTRUCTION EMPLOYEE
PROTECTION – CONTRACT WORK HOURS &
SAFETY STANDARDS ACT**

(for all turnkey, rolling stock and operational contracts {except transportation services contracts and open market contracts} exceeding \$100,000.)

The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provision Applicable to Nonconstruction Contracts Subject to the Contract Work hours and Safety Standards Act),” 29 CFR Part 5.

Provisions 23 through 27 apply to TRANSIT OPERATIONS

FTA 23 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

Public Transportation Employee Protective Arrangements. If the Grant Agreement or Cooperative Agreement for the Project indicates that public transportation employee protective arrangements required by U.S. DOL apply to public transportation operations performed in connection with the Project, the Recipient agrees to comply with the applicable requirements for its Project as follows:

- (1) Standard Public Transportation Employee Protective Arrangements. To the extent that the Project involves public transportation operations and as required by Federal law, the Recipient agrees to implement the Project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), and with the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215 and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees to implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The requirements of this Subsection 24.d(1) of this Master Agreement do not apply to Projects for elderly individuals or individuals with disabilities that are authorized by 49 U.S.C. § 5310(a)(2) or subsection 3012(b) of SAFETEA-LU, or to Projects for nonurbanized areas authorized by 49 U.S.C. § 5311; separate requirements for those Projects are contained in Subsections 24.d(2) and (3), respectively, of this Master Agreement.
- (2) Public Transportation Employee Protective Arrangements for Elderly Individuals and Individuals with Disabilities for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program. To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a governmental authority sub recipient participating a Project authorized by 49 U.S.C. § 5310(b)(2) or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, the Recipient agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor necessary to comply with the requirements of 49 U.S.C. § 5333(b), and the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement. The Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S. DOL certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement.
- (3) Public Transportation Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The Recipient agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated

May 31, 1979, U.S. DOL implementing procedures, and any revisions thereto.

FTA 24 CHARTER BUS OPERATIONS

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142 will engage in charter service operations, except as authorized by 49 U.S.C. § 5323(d) and FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any subsequent Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any charter service agreement required by FTA regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient understands and agrees that in addition to any remedy specified in the charter service agreement, if a pattern of violations of that agreement is found, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

FTA 25 SCHOOL BUS OPERATIONS

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53, or under 23 U.S.C. §§ 133 or 142 will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, and any subsequent School Transportation Operations regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any school transportation operations agreement required by FTA regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient understands and agrees that if it or an operator violates that school transportation operations agreement, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

FTA 26 DRUG USE AND TESTING

The Contractor agrees to establish and implement a drug testing program that complies with 49 CFR Part 40 Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Colorado, or the Regional Transportation District, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 40 and 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Part 40 and 655 before December 31st of every year and to submit the Management Information System (MIS) reports no later than February 15th of every year to the Substance Abuse Testing Department, Regional Transportation District, 1600 Blake Street, Denver, CO 80202-1399. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

FTA 27 ALCOHOL MISUSE AND TESTING

The Contractor agrees to establish and implement an alcohol testing program that complies with 49 CFR Part 40 Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Colorado, or the Regional Transportation District, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 40 and 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Part 40 and 655 before December 31st of every year and to submit the Management Information System (MIS) reports no later than February 15th of every year to the Substance Abuse Testing Department, Regional Transportation District, 1600 Blake Street, Denver, CO 80202-1399. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Provisions 28 through 29 apply to PLANNING, RESEARCH, DEVELOPMENT, AND
DEMONSTRATION PROJECTS

FTA 28 PATENT RIGHTS

A. General. The Recipient agrees that:

- (1) Depending on the nature of the Project, the Federal Government may acquire rights when the Recipient (RTD) or third party participant produces a patented or patentable invention, improvement, or discovery.
- (2) The Federal Government's rights arise when the patent or patentable information is conceived under the Project, or reduced to practice under the Project.
- (3) When a patent is issued or patented information becomes available as described in the preceding paragraph A(1) of this Article, the Recipient agrees to notify FTA immediately, and provide a detailed report satisfactory to FTA.

B. Federal Rights. The Recipient agrees that:

- (1) Its rights and responsibilities, and those of each third party participant, in that invention, improvement, or discovery will be determined as provided by Federal laws, regulations, and directives, including any waiver thereof.
- (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or that of any third party participant as a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in 35 U.S.C. 200 *et seq.*, and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401).

C. License Fees and Royalties. As permitted by 49 C.F.R. Parts 18 and 19:

- (1) License fees and royalties for patents, patent applications, and inventions derived from Project are program income.
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except for compliance with 35 U.S.C. 200 *et seq.*, which applies to patent rights developed under a federally funded research-type project, and as FTA determines otherwise in writing.

FTA 29 RIGHTS IN DATA AND COPYRIGHTS

A. Definition of Subject Data. As used in this Article, "Subject Data" means recorded information that:

- (1) Copyright. Are copyrighted or not copyrighted,
- (2) Delivery. Are delivered or specified to be delivered by the underlying Agreement, and

- (3) Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information.
 - (4) Exceptions. "Subject data" do not include financial reports, cost analyses, or other similar information used for Project administration.
 - B. General. The following restrictions apply to all Subject Data first produced in the performance of the underlying Agreement:
 - (1) Prohibitions. The Recipient (RTD) may not publish or reproduce Subject Data in whole or in part, or in any manner or form, or permit others to do so.
 - (2) Exceptions. The restrictions on publication of Subsection B(1) of this Article do not apply to publications or reproductions for the Recipient's own internal use, to an institution of higher learning, to the portion of the data that the Federal Government has previously released or approved for release to the public, or to the portion of the data that has the Federal Government's prior written consent for release.
 - C. Federal Rights in Data and Copyrights. The Recipient agrees as follows:
 - (1) License Rights. The Recipient must provide the Federal Government a license to "Subject Data" that is royalty-free, non-exclusive, and irrevocable.
 - (2) Uses. The Federal Government's license must permit it to reproduce the Subject Data, publish the Subject Data, otherwise use the Subject Data, and permit others to use the Subject Data for Federal Government purposes.
 - (3) Federal Government Purposes. As used in this Article, "for Federal Government purposes" means that the Federal Government may use its license only for its own direct purposes, and the Federal Government may not provide or otherwise extend to other parties, without the copyright owner's consent, its license to any Subject Data developed and funded at any tier through the underlying Agreement, and any rights of copyright to which the Recipient or third party participant purchases ownership using Federal funds.
 - D. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its third party participants. Therefore, the Recipient agrees that:
 - (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet.
 - (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request.

- (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its third party participants at any tier of the Project, either FTA's copyright to the Subject Data or a copy of the Subject Data, except as FTA determines otherwise in writing.
- (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
- (5) Incomplete Project. If the project is not completed for any reason whatsoever, all data developed under the Project becomes "subject Data" and must be delivered as the Federal Government may direct.
- (6) Exception. This Subsection D does not apply to an adaptation of automatic data processing equipment or program that is both for the Recipient's use, and acquired with FTA capital program funding.

E. License Fees and Royalties. As permitted by 49 C.F.R. Parts 18 and 19:

- (1) License fees and royalties for copyrighted material or trademarks derived from the Project are program income.
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees and royalties, except for compliance with 35 U.S.C. 200 *et seq.*, which applies to patent rights developed under a federally funded research-type project, and as FTA determines otherwise in writing.

F. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that:

- (1) Violation by Recipient. Except as prohibited or otherwise limited by State law, it will indemnify, save, and hold harmless the Federal Government's officers, employees, and agents acting within the scope of their official duties, against any liability, including costs and expenses,
 - (a) If it willfully or intentionally violates any Proprietary rights, Copyrights, or Right of privacy,
 - (b) Occurring from any of the following uses of Project data: Publication, Translation, Reproduction, Delivery, Use, or Disposition.
- (2) Violation by Federal Officers, Employees or Agents. The Recipient will not be required to indemnify the Federal Government for any liability described in the preceding paragraph F(1) caused by the wrongful acts of Federal employees or agents.

G. Restrictions on Access to Patent Rights. Nothing in this Article pertaining to rights in data either:

- (1) Implies a license to the Federal Government under any patent, or
- (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

H. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that it may need to provide data developed without any Federal funding

or support to FTA.

- (1) Protections. paragraphs A, B, C, and D of this Article do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project.
 - (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding or support from unauthorized disclosure unless that data is clearly marked “Proprietary” or “Confidential.”
- I. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by:
 - (1) The Freedom of Information Act, 5 U.S.C. § 552,
 - (2) Another Federal law requiring access to Project records,
 - (3) U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” specifically 49 C.F.R. § 19.36(d), or
 - (4) Other Federal regulations requiring access to Project records.

Provision 30 applies ONLY to States and Organizations that are being funded directly by the State with FTA grant funds.

FTA 5. FTA 30 SPECIAL NOTIFICATION REQUIREMENT FOR STATES

(Per FTA guidance dated July 2011: "The notification requirements concerning federal assistance apply only to States and those organizations that are being funded directly by the State with FTA grant funds. This would include sub-grantees, lessees, or third party contractors of the State. Government agencies that are not part of the State government who are receiving FTA grant funds directly from FTA do not have to comply with the special notification requirements for States." Therefore this clause does not apply to RTD Contracts.)

The Federal Transit Administration ("FTA") is the Federal agency that is providing the Federal assistance for this Contract. The Catalog of Federal Domestic Assistance Number is _____, for the amount of \$_____.

MISCELLANEOUS SPECIAL REQUIREMENTS

FTA 31 ENERGY CONSERVATION

(applies to all contracts)

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan, if any, issued in compliance with the Energy Policy and Conservation Act.

FTA 6. FTA 32 RECYCLED PRODUCTS)

(Contracts when procuring \$10,000 or more per year of items designated by EPA)

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

FTA 7. FTA 33 CONFORMANCE WITH NATIONAL ITS ARCHITECTURE

(Contracts and solicitations for ITS projects)

National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and any

subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

FTA 8. FTA 34 ADA ACCESS

(Contracts for rolling stock or facilities construction/renovation)

- A.** RTD must comply with: 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities; all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act of 1990 (ADA), as amended; 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities.
- B.** All deliverable items provided by the Contractor for RTD under this Contract shall comply with the above-referenced laws as well as all other applicable federal, state and local regulations and directives and any subsequent amendments thereto.

FTA 35 ASSIGNABILITY CLAUSE

(Procurements through assignments)

Neither RTD nor the contractor shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other.

Provisions 36 through 38 apply to ROLLING STOCK PROCUREMENTS

FTA 36 BUS TESTING

The Contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

FTA 37 PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

- (1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- (2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- (3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

FTA 38 TVM CERTIFICATION

The Transit Vehicle Manufacturer (TVM) shall provide RTD with a certificate that complies with 49 CFR Part 26.49 stating that the TVM has complied with FTA's DBE requirements. The TVM shall also provide RTD with the most current letter from the FTA approving the TVM's DBE goal/methodology and eligibility to participate in the FTA DBE

program as a TVM in accordance with 49 CFR Part 26.49. If the FTA has not yet approved the DBE Goal, the TVM shall make a certification to that effect as required by 49 CFR Part 26.49 and in addition submit to RTD a copy of the documents submitted to FTA for approval. These documents shall be submitted with the solicitation response or the TVM's submittal may be deemed non-responsive.

Exhibit F – Attachment A: DBE/SBE Requirements

Attachment A

**Civil Rights/Equal Employment Opportunity/
DBE Program Requirements
RFP/IFB**

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APPENDICES

A. Form of DBE Participation Report

B. DBE Enclosures

- Enclosure 1ADBE Affidavit
- Enclosure 1BDBE Affidavit
- Enclosure 2 Schedule of DBE Subcontractor Participation
- Enclosure 3 Letter of Intent to Perform as a Subcontractor
- Enclosure 4 Solicitation Statistics
- Enclosure 5 Employer Certification of Workforce
- Enclosure 6 Disadvantaged Business Outreach
- Enclosure 7 DBE Unavailability Certification

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PART A

SPECIFIED FEDERAL REQUIREMENTS

The Contractor shall perform its obligations and shall require each Subcontractor to perform its respective obligations under this Contract and the Subcontracts in accordance with, the following requirements. The Contractor shall insert this Part A, Attachment A and its enclosures (Civil Rights/WIN Requirements) into each Subcontract regardless of the tier.

1. CIVIL RIGHTS REQUIREMENTS APPLICABLE TO THE CONTRACT

1.1 CIVIL RIGHTS

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying Contract:

Race, Color, Creed, National Origin, Sex- In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Contract. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

Age- In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

Disabilities- In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

Contracto outreach efforts – additional sheets may be used if necessary:

RTD Contract Name and Number:

Contract No. (the **Contract**).

Proposer:

Subcontractor – if applicable:

Disadvantaged Business Outreach Contact (if none, list contact for the Contract):

Phone: _____ Fax: _____

Email: _____

Website: _____

Currently Sponsored Disadvantaged Business Outreach Activities:

How can RTD assist you in your current Disadvantaged business outreach efforts?

Would you be interested becoming involved in current and future RTD-sponsored outreach activities and committees: [] Yes [] No

If so, how? _____

APPENDIX B, ENCLOSURE 7- DBE UNAVAILABILITY CERTIFICATION

I, _____,

Name

Title

of _____, certify that [*the Contractor*],
made the following efforts to meet the DBE Goals on Regional Transportation District
Contract No. for the Project:

[please attach any additional efforts that do not fit on this form]

- A Contractor representative attended the pre-bid meeting. Yes _____ No _____

- Newspaper Advertisement Log: (attach copies of ads)

Newspaper/Publication	Type of Publication Minority/General/Trade	Dates of Advertisement

- Selected portions of the work to be performed by [DBEs]

Work Categories	Type of Bid (Subcontractor or Supplier)	Contractor's Estimated Budget	Additional Comments

- Made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance or any necessary equipment, supplies, materials, etc.
- [*List any specific offers made by Contractor*]

--

- Solicited the following DBEs

Date Contacted	Name of DBE Firm	Contact Person	Phone #	Work Category

- Followed up with initial contacts

Date	Name of DBE	Phone #	Bidding (Yes or No)	Additional Comments

- Contacted the following other agencies, organizations in recruitment of DBE including RTD:

Date	Organization	Phone #

As shown by the documentation provided to RTD, we feel that we have made good faith effort to attain the DBE Goals.

Signature: _____

Date: _____

r also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

1. *During the performance of this contract, the contractor or subcontractor:*

(i) **WILL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY OR AGE. THE CONTRACTOR WILL ENSURE THAT EQUAL EMPLOYMENT OPPORTUNITY IS AFFORDED TO ALL APPLICANTS IN RECRUITMENT AND EMPLOYMENT, AND THAT EMPLOYEES ARE TREATED, DURING EMPLOYMENT, WITHOUT REGARD TO THEIR RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY OR AGE. SUCH EQUAL EMPLOYMENT OPPORTUNITY SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: EMPLOYMENT, UPGRADING, DEMOTION, OR TRANSFER; RECRUITMENT OR RECRUITMENT ADVERTISING; LAYOFF OR TERMINATION; RATES OF PAY OR OTHER FORMS OF COMPENSATION; AND SELECTION FOR TRAINING, INCLUDING APPRENTICESHIP. THE CONTRACTOR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES TO SETTING FORTH PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.**

(ii) **WILL, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR, STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT WITHOUT REGARD TO RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY OR AGE. THE CONTRACTOR AGREES TO COMPLY WITH ANY REGULATIONS PROMULGATED BY THE EEOC, OFCCP, DEPARTMENT OF LABOR, DEPARTMENT OF JUSTICE, THE REGIONAL TRANSPORTATION DISTRICT, COLORADO REVISED STATUTES AND ALL OTHER RELEVANT STATE AND LOCAL LAWS.**

**PART B
DISADVANTAGED BUSINESS ENTERPRISES
PROGRAM REQUIREMENTS**

1. DEFINITIONS

Unless the context requires otherwise, capitalized terms used in this Attachment A shall have the meanings given to them in Appendix H (Definitions) of the Instructions to Proposers. However, if there is a conflict, the definitions in this section shall prevail. In addition, the following capitalized terms shall have the meanings set out below:

Contract Goal (DBE goal) means a goal determined by such factors as the type of work involved, the location of the work and the availability of the DBEs for the work of the particular contract.

Contractor means any Project Contractor that subcontracts with a DBE for performance of the Work, as applicable.

Commercially Useful Function occurs when a DBE firm is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved in substance as contemplated by the federal regulations codified at 49 CFR Part 26. The DBE firm must also be responsible for materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the materials itself.

Disadvantaged Business Enterprise (DBE) means each of the following:

- (i) ***that is at least 51% owned and controlled by one or more Socially and Economically Disadvantaged individuals or, in the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding; In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals; In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals;***
 - (i) *whose eligible principle(s) personal net worth does not exceed \$1,320,000. The personal net worth excludes the equity of the eligible principle's primary residence and the equity of the eligible principle's firm*
 - (ii) *whose average annual gross receipts for the past 3 years cannot exceed \$22.41 million*
 - (iii) *whose management and daily operations are controlled by one or more of the Socially and Economically Disadvantaged individuals who owns it; and*
 - (iv) *that is certified as a "Disadvantaged Business Enterprise" in the*

state's Unified Certification Program.

DBE Enclosures means the certificates and forms provided in Appendix B of this Attachment.

DBE Goals has the meaning given to it in Section 3.1 of this Attachment.

DBE Liaison means a representative of the Contractor with direct and independent access to the Contractor's project manager and/or chief operating officer. This can be a collateral duty. The DBE Liaison has management responsibility for implementing, managing and reporting on achievement of the DBE Goals, ensuring compliance with 49 CFR Part 26, communicating subcontracting, business development and supportive services activity at all tiers. The DBE liaison is also responsible for serving as the point of contact with RTD's Disadvantaged Business Office for all reporting, submission of properly completed forms/documents, and for responding to any compliance issues/matters.

DBE Participation Report has the meaning given to it in Section 3.10 of this Attachment.

Small Business Office or **SBO** means the RTD Department responsible for administering the DBE/SBE Programs.

2. **Overview of RTD's DBE Program Policy**

- (a) RTD's policy is to ensure nondiscrimination in the award and administration of the District's construction contracts, professional service contracts, and in the procurement of common goods and services. The Contractor shall comply with and implement requirements of RTD's DBE Program and 49 CFR Part 26 in the award and administration of Subcontracts under this Agreement. The Contractor shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability in the performance of this Contract. The Contractor shall ensure that the nondiscrimination clause(s)/ flow-down provisions found in Section I be incorporated in all subcontract agreements regardless of tier. It is RTD's intention to create a level playing field on which DBE's can compete fairly for federally funded contracts. Failure by the Contractor to comply with or implement these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as RTD deems appropriate. RTD's commitment to the DBE Goals is not intended to and shall not be used as a justification to discriminate against any qualified company or group of companies.

Additionally:

(i) **THE AVERAGE ANNUAL GROSS RECEIPTS FOR THE PAST 3 YEARS CANNOT EXCEED \$22.41 MILLION. THIS AMOUNT INCLUDES ANY AFFILIATE BUSINESSES OWNED IN WHOLE OR PART BY ANY APPLICANT OWNER OR STOCKHOLDER REGARDLESS OF THEIR OWNERSHIP INTEREST.**

(ii) **THE PERSONAL NET WORTH OF THE ELIGIBLE PRINCIPLE(S) OF A DBE FIRM MUST BE LESS THAN \$1,320,000 (ON AN INDIVIDUAL BASIS) - EXCLUDING THE EQUITY OF THE ELIGIBLE PRINCIPLE'S PRIMARY RESIDENCE AND THE EQUITY OF THE ELIGIBLE PRINCIPLE'S FIRM. AT LEAST 51% OF THE OWNERS/STOCKHOLDERS MUST MEET THE PERSONAL NET WORTH CRITERIA FOR THE BUSINESS TO BE ELIGIBLE. APPLICANTS CANNOT TRANSFER OWNERSHIP SOLELY FOR THE PURPOSE OF QUALIFYING FOR THE DBE PROGRAM. IF IT COMES TO RTD'S ATTENTION, THAT THERE HAS BEEN A TRANSFER OF AN OWNER'S ASSETS, RTD MAY REQUEST THE CERTIFYING AUTHORITY UNDER THE COLORADO UCP TO EVALUATE TRANSFERS OF OWNERSHIP WITHIN THE PAST TWO YEARS TO DETERMINE COMPLIANCE WITH THE PERSONAL NET WORTH REQUIREMENTS.**

(iii) **TO COUNT A DISADVANTAGED BUSINESS' PARTICIPATION TOWARD THE GOAL ESTABLISHED FOR THIS CONTRACT, THE PROPOSED DBE(S) MUST BE CERTIFIED AS A DBE(S) WITH THE CITY AND COUNTY OF DENVER OR CDOT (COLORADO UCP) UNDER THE NAICS CODE THAT COINCIDES WITH THE SCOPE OF WORK THAT THEY WILL EXECUTE IN THE PROJECT. THE DBE FIRM MUST BE CERTIFIED**

AS A DBE AND PERFORM A “COMMERCIALLY USEFUL FUNCTION” AS DEFINED IN THIS ATTACHMENT. PRIME CONTRACTORS SHOULD ALSO BE SURE THAT THE DBE IS CERTIFIED AS OF THE DATE THAT RTD RECEIVES THIS BID/PROPOSAL UNLESS SOME OTHER TIME FRAME IS REQUIRED BY THE NATURE OF THE PROJECT DELIVERY METHOD, PROJECT DURATION OR WHEN THE DBE IS APPROVED BY RTD TO BE ADDED TO THE CONTRACTOR’S SCHEDULE OF PARTICIPATION.

3. General Requirements

3.1 DBE Goals

- (i) Unless otherwise indicated in the Contract or an addendum to the Contract, for Invitations for Bids (IFB), the contract will be awarded to the lowest responsive and responsible bidder. For Request for Proposals (RFP) with best value criteria, the contract will be awarded to the responsive and responsible proposer or proposers who best meet the Evaluation Criteria, cost and other factors considered (including DBE Program requirements and DBE approach/strategy). A bidder/proposer who fails or refuses to complete and return the required enclosures to this Attachment will be deemed non-responsive. The specified DBE participation goal applies to all post selection negotiations. The contractor’s commitment to the percentage of certified DBE utilization during the term of this contract will be stated in the DBE Affidavit (Enclosure 1A). All extensions, amendments, and options of the contract are subject to review by RTD’s SBO. The SBO may determine that a modification may impact the Contractor’s ability to comply with its initial commitment. However, a partial waiver of the goal will not be considered until the end of the contract and the totality of the Contractor’s compliance efforts are assessed to determine its ability to comply with the initial commitment. The SBO will evaluate all decisions to self- perform scopes of work where DBE availability was present, yet not solicited, not utilized or disregarded. RTD has specified a 10 % DBE Participation goal. During the entire project duration the Contractor shall ensure:

(A) *that at least __% (calculated by Dollar value) of the Work be performed by DBEs. If this contract involves an alternative project delivery method or the project duration is multi-year, RTD may specify that certain percentages of participation be attributable to specific phases of the project. If that is the case, this section will reflect the additional requirements including the requirements associated with a DBE Plan/Program submission.*

or

(B) *demonstrate with satisfactory documentation that it has made good faith efforts to meet the DBE Goal, as applicable. Contractors failing to meet the specified DBE goal are required to submit DBE Unavailability Certification, in the form set out in the Attachment A (Enclosure 7: DBE*

Unavailability Certification) along with complete documentation of good faith efforts to meet the goal. Failure to provide complete documentation/detailed written explanations of good faith efforts will result in the bid/proposal being deemed non-responsive. Appendix A of 49 CFR Part 26 shall serve as the criteria for evaluating compliance with the good faith efforts requirements. Additionally, bidders/proposers are required to solicit the support and assistance of RTD's SBO if they are unable to meet the DBE participation goal assigned to this contract.

Multi-Year and Design Build Project Requirements

To be considered a responsive bidder/proposer, when a DBE goal is specified for design-build projects, a bidder/proposer must meet the goal referred to in the bid specification by committing to meet the DBE participation goal for each phase of the design build process in its DBE Plan specifically identifying certified DBE firms that will be performing services or providing supplies in the first year of the design/build contract (in both the design and construction phases, as applicable) and Attachment A enclosures or make a good faith effort to attain the goal. The documentation evidencing good faith efforts shall be submitted with the bid/proposal. At a minimum, the bidder/proposer must identify the value of both the design and construction services to be spent during the first year (unless a greater timeframe is specified/required in the instructions to bidders/proposers.

- (ii) *The DBE participation goal applies to the total value of all work performed under the contract which includes the value of all change orders, amendments and modifications. Any partial waiver determination will be made at or near the conclusion of the contract when the totality of the circumstances can be taken into consideration and the Contractor's efforts can be objectively evaluated. Material supplies are credited for 60% of their contract value unless they are deemed to be a broker or transaction expediter in which case only the fee or commission may be counted toward the goal (so long as the DBE is performing a commercially useful function). If it is determined that the DBE is not performing a commercially useful function, then no participation credit shall be attributable to their participation on the contract.*
- (iii) *To count DBE participation toward the goal established for this contract, the proposed DBE(s) must be certified as a DBE(s) with the City and County of Denver or CDOT under the appropriate NAICS code that coincides with the scope of work that they will execute on the project/contract. Additionally, the DBE firm must be certified as a DBE and perform a "commercially useful function" as defined in this Attachment.*

3.2 Joint Ventures

- (i) *A Joint Venture is an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine*

their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

- (ii) *RTD will count toward its DBE goal a portion of the total dollar value of a contract with a joint venture equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward the DBE goal(s) and such services/supplies/NAICS codes are approved for DBE participation credit. The joint venture agreement MUST specify the services, dollar value, reporting structure and details of the DBEs performance requirements associated with the percentage of the joint venture ownership.*

3.3 ***DBE Liaison***

- (i) *The Contractor shall designate a DBE Liaison who shall be responsible for the following:*

(A) DAY-TO-DAY OPERATIONAL COMPONENTS OF THE DBE PROGRAM:

(B) EFFECTIVELY RESPONDING TO AND REPORTING TO THE SBO ON THE STATUS OF ANY DBE CONTRACTOR/SUPPLIER;

(C) SUBMITTING EXECUTED DBE SUBCONTRACTS/PURCHASE ORDERS AND ANY SUBSEQUENT MATERIAL AMENDMENTS THERETO TO THE SBO WITHIN THIRTY (30) DAYS OF THE SUBCONTRACTOR AGREEMENT EXECUTION (HOWEVER, NO DBE SHALL COMMENCE ANY WORK OR PROVIDE ANY MATERIAL/SUPPLY WITHOUT AN EXECUTED SUBCONTRACT/PURCHASE ORDER);

(D) INTERFACING WITH THE SBO REGARDING DBES' ISSUES AND OBTAINING APPROVALS FOR ALL DBE REPLACEMENTS, SUBSTITUTIONS OR TERMINATIONS; AND

(E) CARRYING OUT OR IMPLEMENTING TECHNICAL ASSISTANCE ACTIVITIES SO THAT THE PLAYING FIELD IS LEVEL FOR DBES.

(F) PREPARE, COMPLETE AND SUBMIT ALL REQUIRED COMPLIANCE DOCUMENTATION, INCLUSIVE OF SUBCONTRACT AGREEMENTS, SCHEDULE OF PARTICIPATION ENCLOSURE, MONTHLY PAYMENT FORMS

(G) ENSURE ALL CONTRACTUAL REQUIREMENTS OF THE DBE PROGRAM INCLUSIVE BUT NOT LIMITED TO PROMPT PAYMENT, TERMINATION/SUBSTITUTION/REPLACEMENT/REDUCTION OF SCOPE, CHANGES, NON-DISCRIMINATION ARE COMPLIED WITH AND IN THEIR SUBCONTRACT AGREEMENTS WITH ALL OF THEIR SUBCONTRACTORS REGARDLESS OF TIER

(H) A REPRESENTATIVE OF THE CONTRACTOR HAVING MANAGEMENT RESPONSIBILITY FOR IMPLEMENTING, MANAGING AND

REPORTING ON ACHIEVEMENT OF THE DBE GOALS, COMMUNICATING SUBCONTRACTING, BUSINESS DEVELOPMENT AND SUPPORTIVE SERVICES ACTIVITY AT ALL TIERS, ENSURING COMPLIANCE WITH THE NON-DISCRIMINATION PROVISIONS AND THE AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS.

(I) MONITORING LOWER TIER SUBCONTRACTORS AND SUPPLIERS TO ENSURE THAT THEY COMPLY WITH THE DBE PROGRAM REQUIREMENTS AND THE DBE PLAN SUBMITTED BY THE PRIME CONTRACTOR.

(x) In lower value or shorter duration contracts, the DBE Liaison responsibilities may be a collateral responsibility.

- (ii) *The DBE Liaison shall submit a written monthly report detailing the activities and documentation of good faith efforts of the previous month as well as submitting DBE Participation Reports, all additional requested forms and shall schedule monthly meetings with the SBO to address any issues or concerns.*

Flow-Down Provisions:

The Contractor must include the following provisions in their subcontract agreements with their DBE subcontractors as well as ensure that tiered-contractors comply with this Section and insert the provisions of this Section into all lower tiered subcontractor agreements: 3.4 prompt payment provisions, 3.5 DBE Removal/Termination/substitution/Reduction of Scope provisions, and 3.7 Changes provisions. The contractor will be required to submit to the RTD Small Business Office all DBE subcontracts/purchase orders within 30 days of the execution of its contract with RTD or issuance of the notice to proceed (whichever occurs first). However, in no event shall a DBE perform any service or procure any supply unless RTD's SBO has a copy of the executed subcontract agreement or purchase order.

3.4 ***Prompt Payment of DBE Subcontractors***

- (i) *The Contractor shall ensure that:*

(A) EACH CONTRACTOR SHALL PAY ITS RESPECTIVE DBE SUBCONTRACTORS ANY UNDISPUTED AMOUNT OWED TO SUCH SUBCONTRACTOR WITHIN 30 DAYS OF RECEIPT OF THE SUBCONTRACTOR'S RECEIPT BY SUCH CONTRACTOR, REGARDLESS OF WHETHER SUCH CONTRACTOR HAS BEEN PAID FOR SUCH INVOICE BY RTD;

(B) APPROVAL OF INVOICES IS NOT UNREASONABLY DELAYED AND THAT INVOICES SHALL BE EITHER APPROVED OR REJECTED WITH WRITTEN NOTICE OF DEFICIENCY OR DISPUTE TO THE PAYEE DBE SUBCONTRACTOR WITHIN TEN DAYS OF RECEIPT OF INVOICE BY THE CONTRACTOR; AND

(C) EACH CONTRACTOR MAKES PROMPT AND FULL PAYMENT OF ANY RETAINAGE KEPT BY SUCH CONTRACTOR TO ITS RESPECTIVE SUBCONTRACTORS DBE WITHIN 30 DAYS AFTER SUCH DBE'S WORK HAS BEEN ACCEPTED AND COMPLETED BY CONTRACTOR, UNLESS CLAIM IS FILED AGAINST A SUBCONTRACTOR;

(D) FAILURE TO COMPLY WITH THE ABOVE MAY GIVE JUST CAUSE TO WITHHOLD PAYMENT FROM CONTRACTOR UNTIL PAYMENT TO THE SUBS IS SATISFIED. DEPENDING ON EXTENT OF FAILURE TO COMPLY WITH THE ABOVE, SUCH FAILURE MAY ALSO BE CONSTRUED TO BE A BREACH OF CONTRACT.

(E) The Contractor shall ensure that tiered subcontractors comply with this Section and insert the provisions of this Section into all lower tiered subcontractor agreements.

- (ii) Joint Check Utilization: A joint check is a two party check between a DBE, a prime contractor and a regular dealer of materials/supplies. All joint check arrangements must be pre-approved by the SBO and must strictly adhere to the joint check requirements set forth in USDOT guidance regarding same. At a minimum, the request must be initiated by the DBE and remedy a financial hardship for a specific period of time. There are monthly reporting requirements that must be complied with in order to receive DBE participation credit. The SBO will closely monitor the use of joint checks to ensure that the independence of the DBE firm is not compromised. Joint check usage will not be approved merely for the convenience of the prime contractor.

3.5 ***DBE Removal/Termination/Substitution/Reduction of scope from Contract***

- (i) *A Contractor must have good cause to remove/terminate/substitute/replace a DBE contractor and such removal/termination/substitution requires the consent and approval of RTD's SBO. This section also includes reductions to the DBEs scope of services and/or commitment values. No DBE subcontract may contain a "termination for convenience" clause/provision because any termination for convenience provision/clause is contrary to the objectives of this part. To initiate the termination, substitution, removal or replacement process with a DBE contractor/supplier (regardless of the tier), the Contractor or lower tier contractor/subcontractor must do the following:*

(A) BEFORE TRANSMITTING TO RTD'S SBO ITS REQUEST TO TERMINATE AND/OR SUBSTITUTE A DBE CONTRACTOR, THE CONTRACTOR MUST GIVE NOTICE IN WRITING TO THE DBE CONTRACTOR AND RTD SBO. THE NOTICE MUST INCLUDE ITS REQUEST TO TERMINATE AND/OR SUBSTITUTE, REPLACE AND/OR REMOVE THE DBE, THE REASON FOR THE REQUEST AND ALL DOCUMENTATION TO SUPPORT ITS CLAIM. THE CONTRACTOR MUST SUBMIT A COPY OF THE NOTICE AND SUPPORT DOCUMENTATION TO RTD'S SBO AT THE TIME THE ORIGINAL LETTER IS SENT TO THE DBE CONTRACTOR;

(B) THE CONTRACTOR MUST GIVE THE DBE CONTRACTOR FIVE (5) BUSINESS DAYS TO RESPOND TO THE NOTICE AND PROVIDE THE SBO WITH REASONS, IF ANY, WHY IT OBJECTS TO THE PROPOSED TERMINATION OF ITS DBE CONTRACT AND WHY THE SBO SHOULD NOT CONSENT THE CONTRACTOR'S ACTION;

(C) RTD'S SBO WILL THEN OPEN A FORMAL INVESTIGATION INCLUSIVE OF REVIEW OF ALL DOCUMENTATION, CONDUCT INTERVIEWS AND SITE VISITS, IF NECESSARY. THE CONTRACTOR CARRIES THE BURDEN OF PROOF TO DEMONSTRATE GOOD CAUSE FOR THE TERMINATION AND/OR SUBSTITUTION;

(D) IF RTD'S SBO DETERMINES THE CONTRACTOR HAS GOOD CAUSE TO TERMINATE THE /DBE FIRM, THE SBO WILL PROVIDE WRITTEN CONSENT OF /DBE REMOVAL AND THE REQUIREMENTS TO SUBSTITUTE WORK TO ANOTHER DBE FIRM. IF RTD'S SBO FINDS THAT GOOD CAUSE DOES NOT EXIST TO TERMINATE THE DBE FIRM, THE SBO WILL PROVIDE A WRITTEN DENIAL OF THE REQUEST TO TERMINATE/REPLACE THE DBE CONTRACTOR AND WILL IMMEDIATELY REQUEST A CORRECTIVE ACTION PLAN FROM THE CONTRACTOR.

(E) FOR PURPOSES OF GOOD CAUSE TO REMOVE, REPLACE, TERMINATE OR REPLACE A DBE THE FOLLOWING CIRCUMSTANCES SHOULD EXIST: (1) FAILURE OR REFUSAL TO EXECUTE A WRITTEN CONTRACT WITHOUT GOOD CAUSE, (2) FAILURE OR REFUSAL TO PERFORM THE WORK OF ITS SUBCONTRACT IN A WAY CONSISTENT WITH NORMAL INDUSTRY PRACTICE AND THE CONTRACTOR HAS NOT ACTED IN BAD FAITH, (3) FAILURE TO MEET THE CONTRACTOR'S REASONABLE BONDING OR INSURANCE REQUIREMENTS, (4) INSOLVENCY, BANKRUPTCY OR CREDIT UNWORTHINESS THAT CREATES A RISK FOR THE CONTRACT, (5) INELIGIBILITY TO WORK ON PUBLIC WORKS PROJECT BECAUSE OF SUSPENSION OR DEBARMENT PROCEEDINGS, (6) A DETERMINATION THAT THE DBE IS NOT A RESPONSIBLE CONTRACTOR, (7) VOLUNTARY WITHDRAWAL FROM THE PROJECT BY WRITTEN NOTIFICATION THAT HAS BEEN VERIFIED, (8) INELIGIBILITY TO RECEIVE DBE PARTICIPATION CREDIT FOR THE TYPE OF WORK TO BE PERFORMED, (9) OTHER DOCUMENTED GOOD CAUSE THAT COMPELS THE REPLACEMENT OF THE DBE.

(F) IF THE CONTRACTOR IS APPROVED TO REPLACE/REMOVE/TERMINATE THE DBE, THE CONTRACTOR MUST MAKE GOOD FAITH EFFORTS TO REPLACE THE DBE WITH ANOTHER CERTIFIED DBE AND SHALL NOT SELF-PERFORM THE WORK/SERVICES.

- (ii) *The Contractor shall ensure that tiered subcontractors comply with this Section and insert the provisions of this Section into all lower tiered subcontractor agreements, regardless of their certification status.*

3.6 *Good Faith Efforts*

- (i) *To award a contract to a bidder/proposer that has failed to meet the DBE contract goals, the RTD SBO Manager will decide whether the contractor made a “good faith” effort to actively, effectively and aggressively seek DBEs to meet those goals prior to bid/proposal submission and in its commitments as set forth in their Schedule of Participation/the DBE Plan to continue its efforts to meet the DBE participation goals for subsequent phases of the project. Contractors are also responsible for collecting good faith effort documentation of all major non-DBE subcontractors/suppliers as part of their responsibility to implement the DBE Program.*

The kinds of efforts that are considered demonstrative of a “good faith” effort include, but are not limited to, the following:

(A) **WHETHER THE CONTRACTOR SOLICITED THROUGH ALL REASONABLE AND AVAILABLE MEANS (E.G. ATTENDANCE AT PRE-BID MEETINGS, ADVERTISING AND/OR WRITTEN NOTICES) THE INTEREST OF ALL CERTIFIED DBES WHO HAVE THE CAPABILITY TO PERFORM THE WORK OF THE CONTRACT. THE BIDDER MUST SOLICIT THIS INTEREST WITHIN SUFFICIENT TIME TO ALLOW THE DBES TO RESPOND TO THE SOLICITATION. THE BIDDER MUST DETERMINE WITH CERTAINTY IF THE DBES ARE INTERESTED BY TAKING APPROPRIATE STEPS TO FOLLOW UP INITIAL SOLICITATIONS.**

(B) **WHETHER THE CONTRACTOR SELECTED PORTIONS OF THE WORK TO BE PERFORMED BY DBES IN ORDER TO INCREASE THE LIKELIHOOD THAT THE DBE GOALS WILL BE ACHIEVED. THIS INCLUDES, WHERE APPROPRIATE, BREAKING OUT CONTRACT WORK ITEMS INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION, EVEN WHEN THE PRIME CONTRACTOR MIGHT OTHERWISE PREFER TO PERFORM THESE WORK ITEMS WITH ITS OWN FORCES.**

(C) **WHETHER THE CONTRACTOR PROVIDED INTERESTED DBES WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE CONTRACT IN A TIMELY MANNER TO ASSIST THEM IN RESPONDING TO A SOLICITATION.**

(D) **WHETHER THE CONTRACTOR NEGOTIATED IN GOOD FAITH WITH INTERESTED DBES. IT IS THE BIDDER’S RESPONSIBILITY TO MAKE A PORTION OF THE WORK AVAILABLE TO DBE SUBCONTRACTORS AND SUPPLIERS AND TO SELECT THOSE PORTIONS OF THE WORK OR MATERIAL NEEDS CONSISTENT WITH THE AVAILABLE DBE SUBCONTRACTORS AND SUPPLIERS, SO AS TO FACILITATE DBE PARTICIPATION. THE FACT THAT A BIDDER MAY PERFORM 100% OF THE WORK WITH ITS OWN WORKFORCE IS NOT SUFFICIENT JUSTIFICATION TO FAIL TO NEGOTIATE WITH DBES OR**

NOT TO MEET THE DBE PARTICIPATION GOAL ASSIGNED TO A PROJECT.

(E) EVIDENCE OF SUCH NEGOTIATION INCLUDES THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF DBES THAT WERE CONSIDERED; A DESCRIPTION OF THE INFORMATION PROVIDED REGARDING THE PLANS AND SPECIFICATIONS FOR THE WORK SELECTED FOR SUBCONTRACTING; AND EVIDENCE AS TO WHY ADDITIONAL AGREEMENTS COULD NOT BE REACHED FOR DBES TO PERFORM THE WORK.

(F) WHETHER THE CONTRACTOR MADE EFFORTS TO ASSIST INTERESTED DBES IN OBTAINING BONDING, LINES OF CREDIT, OR INSURANCE AS REQUIRED BY THE RECIPIENT OR CONTRACTOR.

(G) WHETHER THE CONTRACTOR MADE EFFORTS TO ASSIST INTERESTED DBES IN OBTAINING NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES.

(H) WHETHER THE CONTRACTOR EFFECTIVELY USED THE SERVICES OF AVAILABLE MINORITY/WOMEN COMMUNITY ORGANIZATIONS, CONTRACTORS' GROUPS AND OTHER ORGANIZATIONS TO PROVIDE ASSISTANCE IN THE RECRUITMENT AND PLACEMENT OF DBES, INCLUDING RTD'S SBO.

(I) WHETHER OTHER BIDDERS/PROPOSERS ON THE PROCUREMENT MET THE DBE GOALS AND SUBMITTED AN ACCEPTABLE DBE PLAN DEMONSTRATING COMPLIANCE WITH THE DBE PROGRAM REQUIREMENTS FOR A DESIGN-BUILD PROJECT.

- (ii) *If, after reviewing the "good faith efforts" documentation submitted by the contractor, the RTD SBO Manager determines that "good faith efforts" were met, the contract will be recommended for award to the contractor. If the SBO Manager determines that the contractor failed to meet the "good faith efforts" requirements, the contractor will be informed in writing that their submittal was deemed non-responsive to the Attachment A requirements and will not be considered for contract award. The contractor may appeal the decision of the RTD SBO Manager to the Good Faith Efforts (GFE) Committee. If the contractor wishes to appeal, they must do so in writing to the RTD Senior Manager of Materials Management within 5 business days of being informed of the decision of the RTD SBO Manager that their submission was non-compliant.*
- (iii) *If the decision of the SBO Manager is appealed in writing, within the 5 day submission window, the GFE Committee will review the documentation initially submitted by the contractor - and no other information - under this Section to decide whether the DBE requirements have been satisfied through "good faith efforts".*
- (iv) *If the written appeal request is received after the 5 business day submission window, it will be disallowed and the determination of the RTD SBO Manager that the submission was non-compliant will stand.*

- (v) *If the GFE committee determines that “good faith efforts” were met, the contract will be recommended for award to the contractor. If the GFE Committee determines that the contractor has failed to meet the good faith effort requirements, the contractor will be informed in writing. The contractor has an opportunity for administrative reconsideration of the determination of the GFE committee. If the contractor requests administrative consideration, they must do so in writing to the RTD Senior Manager of Materials Management within 5 business days of receiving the decision of the GFE Committee that their submission was non-compliant. If the written administrative consideration request is received after the 5 business day submission window, it will be disallowed and the determination of the GFE committee that the submission was non-compliant will stand.*
- (vi) *The reconsideration official will be a member of RTD staff who did not take part in the initial “good faith” effort decision. The reconsideration official will review the documentation initially submitted – and no other information - under this Section to decide whether the DBE requirements have been satisfied through good faith efforts.*
- (vii) *If the reconsideration official determines that “good faith” efforts were met, the contract will be recommended for award to the contractor. If the reconsideration official determines that the contractor has failed to meet the “good faith effort requirements, the contractor will be informed in writing. The result of the reconsideration process is not administratively appealable to the Department of Transportation.*

3.7 Changes

- (i) *The DBE participation goal shall apply to the performance/dollar value of all obligations under this Contract, including any Changes, Modifications, Amendments and Change Orders whether initiated by the contractor or RTD. Post award requests for partial waivers may be considered by RTD’s SBO but a final determination shall not be rendered until the contract has been substantially completed and the Contractor lacks the ability to satisfy the DBE participation goal.*
- (ii) *Changes to the value or scope of work committed to a DBE must be pre-approved by the SBO and must be for good cause as set forth in the termination, substitution, replacement provisions set forth in section 3.5 above.*

3.8 Requirements of Attachment A Enclosures

- (i) *The Contractor must complete and return all applicable Enclosures in the forms set out in this Attachment with bid/proposal. All enclosures must also be submitted with the bid/proposal.*
- (ii) *The Enclosure 2 Schedule of Participation enclosure subsequent to the award*

must be submitted with the addition of each identified DBE firm.

- (iii) *The Enclosure 3 Letter of Intent (LOI) enclosure subsequent to the award must be submitted with the addition of each identified DBE firm.*
- (iv) *The Contractor completing the Attachment A Enclosures is advised to contact the RTD's SBO at (303) 299-2111 if they have any questions or concerns prior to submitting bid/proposal documentation. Additional Attachment A documentation will not be accepted after the contractor submits their bid/proposal to RTD.*

As a condition of the award, the contractor must use those DBEs listed to perform the specific work items or supply the materials as committed in the Enclosure 2 Schedule of Participation and Enclosure 3 Letter(s) of Intent (LOI) and the contractor is not entitled to any payment for work or materials performed by its own or any other forces if the work or supplies were committed to a DBE, unless it receives prior written consent by RTD Small Business Office for a replacement of the DBE for good cause.

- (v) *Failure to return all required DBE Enclosures will result in your bid/proposal being deemed non-responsive. Modification of any Enclosure documentation will result in your bid/proposal being deemed non-responsive.*

Periodically, after award of the contract, RTD's SBO in conjunction with the contractor may determine that an enclosure is more beneficial with modifications or that an additional enclosure is necessary to more effectively report the status of DBE participation or performance and resolution of DBE concerns/issues. RTD has the right to ask for a modification. Such a revised enclosure shall be incorporated into contract as an additional requirement.

3.9 Reporting and Orientation Requirements

- (i) *The Contractor shall submit at least monthly, a DBE Participation Report in the form set out in Appendix A (Form of DBE Participation Report). The Contractor shall submit each completed DBE Participation Report to RTD's SBO.*
- (ii) *The Contractor acknowledges that the SBO has the right to independently confirm the information contained in the submitted DBE Participation Reports by soliciting such information from each DBE Subcontractor as may be required to verify payments received, distribution of payments received, subcontracting practices, participation credit, and sharing of resources/personnel. The Contractor shall not attempt to dissuade any such DBE contractor from disclosing any such information or cooperating in any investigation initiated by the SBO.*
- (iii) *The Contractor shall submit to RTD's SBO a Subcontractors Participation and Payment Form documenting all payments made to all DBEs and non-DBEs on a form provided/approved by RTD's SBO.*
- (iv) *The DBE contractor shall submit to RTD's SBO a summary of payments received from its contractor, regardless of their lower tier, on a form approved by RTD's SBO.*

- (v) *The DBE contractor may be selected to participate in a commercially useful function review or a DBE compliance review before their contract can be closed by RTD. DBEs are required to fully cooperate with RTD's SBO or its designee in the compliance review process. The commercially useful function review process will be initiated with a request for documents relating to contract performance and management of the actual work performed on the contract. The scope and intensity of each commercially useful function review will depend on the specific facts and circumstances. The commercially useful function is purposed to verify the amount of DBE participation credit, to ensure that work is actually performed by the DBE consistent with the DBE Program requirements and/or to ensure that there is no activity engaged in by the DBE that would be inconsistent with the intent and objectives of the DBE Program. The commercially useful function review is more formal and will be initiated with an orientation/explanation process and closed out with a briefing and determination. The DBE contractor may be subjected to an informal compliance review by RTD's SBO or its designee with or without notice. The informal compliance review will generally be conducted at the work site where RTD actually observes and assesses the services/supplies being provided by the DBE.*
- (vi) The Contractor or any of its lower tier non-DBE subcontractors may be selected for a DBE compliance review to ensure that they are in compliance with the DBE Program requirements. This process will be initiated in a formal manner with written notice and instructions sent to the Contractor or its major subcontractor. The process will conclude with a close-out interview or debriefing where the Contractor or non-DBE firm will be given an opportunity to refute the determination or add to any corrective action requested by RTD. The contractor must cooperate with any DBE Program audit or compliance review. Failure to cooperate can result in part or all of the DBE participation credit being denied/removed from counting toward the DBE participation goal for the contract.
- (vii) *All DBEs are required to participate in the RTD's DBE Orientation Program if awarded an RTD contract, subcontract or purchase order before commencing work or providing supplies on this contract. Failure to participate in the DBE orientation program may result in a denial of DBE participation credit for the project/contract. For good cause, the orientation may be delayed if pre-approved by RTD. DBEs may be required to repeat the orientation if there are changes to the DBE Program requirements, changes in the DBE regulations, changes in the DBE personnel, or if the DBE is experiencing challenges in complying with the reporting requirements.*

ATTACHMENT A DBE ENCLOSURE CHECKLIST

This checklist will help you verify all the required enclosures are complete and submitted as required. Submit this checklist as the front page of your Attachment A Enclosures. Attachment A Enclosures are to be submitted with bid/proposal. Failure to submit a completed checklist with your Attachment A Enclosures may result in your proposal to be deemed Non-Responsive. Modification of any Attachment A Enclosure prior to the official award of the contract will result in your proposal being deemed Non-Responsive. All enclosures must be submitted with the bid/proposal. If you have any questions concerning the completion of any of the Enclosures, please contact RTD's Disadvantaged Business Office at (303) 299-2111.

Form of DBE Participation

This form must be submitted monthly by all prime contractors throughout the entire duration of the contract. This form needs to be submitted directly to the RTD SBO.

Enclosure 1A: DBE Affidavit

This form must be completed, signed and notarized by all Prime Contractors, whether DBE or not, to acknowledge the percentage of DBE participation and indicate intent to comply with the DBE goal

Enclosure 1B: DBE Prime Affidavit

This form must be completed, notarized and signed only if the bidder/proposer is a DBE submitting a proposal/bid as a Prime Contractor. This form, if applicable, must be submitted with a current DBE certificate by all **DBE prime contractors** to affirm DBE status.

Enclosure 2: Schedule of DBE Participation

This form must be submitted by all Prime contractors including DBE Prime contractors. It must contain the following information: names and addresses of certified DBE participating subcontractors, the work they are to perform and the dollar value of each proposed certified DBE contract. The Contractor subsequent to award must update and submit this form with the addition of each identified DBE firm. The Contractor is required to enter into subcontract agreements or issue purchase orders to all DBEs within thirty (30) days of notice to proceed.

Enclosure 3: Letter of Intent to Perform as a Subcontractor

This form must be submitted by the Contractor. It must contain the following information: names and addresses of certified DBE participating subcontractors, the work they are to perform and the dollar value of each proposed certified DBE contract and be signed by the DBE subcontractor. The Contractor subsequent to the award must submit this form with the addition of a DBE. A copy of the current DBE Certificate for each listed DBE subcontractor must be attached.

Enclosure 4: Solicitation Statistics

This form is for statistical purposes only. It is for the prime and all companies the prime receives bids from on subcontract work.

Enclosure 5: Employer Certification of Workforce

This form defines the make-up of the company's work force and must be filed by every prime contractor with 50 or more employees or has a contract of \$50,000 or more.

Enclosure 6: Disadvantaged Business Outreach

This form provides current outreach program information for contracted prime and subcontractors.

Enclosure 7: Unavailability Certification

This form must be submitted - along with complete documentation of good faith efforts - with the bid/proposal by a prime contractor who has failed to meet the specified DBE goal.

APPENDIX A

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APPENDIX B- DBE ENCLOSURES

Enclosure 1a- DBE AFFIDAVIT

THIS PAGE MUST BE COMPLETED BY ALL PRIME PROPOSERS/BIDDERS TO INDICATE THE PERCENTAGE OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION.

The undersigned contractor hereby agrees that the goal established for DBE participation and its commitment in this project through subcontracting or entering into a joint venture with Disadvantaged Business Enterprise(s) in conformity with the Requirements, Terms, and Conditions of this Attachment is: _____% - DBE (Disadvantaged Business Enterprise)

THIS PERCENTAGE RELATES TO DBE SUBCONTRACTING ONLY AND IS CONSISTENT WITH THE DISADVANTAGED BUSINESS ENTERPRISE STATEMENT LISTED IN THE BID/PROPOSAL FORM.

THIS BIDDER/PROPOSER IS COMMITTED TO COMPLY WITH OR EXCEED THE ABOVE GOAL.

Business Name: _____

Contact Name: _____

Address: _____

City, State, ZIP: _____

Phone: _____ Fax: _____

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING STATEMENTS ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF

_____ TO MAKE THIS AFFIDAVIT.

(Name of Business Entity)

(Date) (Affiant Print Name) (Title)

(Affiant's Signature)

State of _____:

City and County of _____:

On this _____ day of _____, _____, before me, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit, and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

My Commission Expires: _____

(Notary Public) (SEAL)

**APPENDIX B- DBE ENCLOSURES
ENCLOSURE 1B- DBE AFFIDAVIT**

THIS PAGE MUST BE COMPLETED BY THE DISADVANTAGED BUSINESS ENTERPRISE PRIME CONTRACTOR (PROPOSER/BIDDER)

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title)

and duly authorized representative of (the firm of) _____
(Name of Corporation or Joint Venture)

whose address is _____

(Telephone No.)

I hereby declare and affirm that I am a Disadvantaged Business Enterprise (DBE) and am certified as of the date that the RTD receives this bid/proposal and as defined by the Regional Transportation District in Attachment A for

_____ and that I will provide
(Contract number and name)
information and/or the certification to document this fact with this enclosure.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING STATEMENTS ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

(Date) (Affiant Print Name) (Title)

(Affiant's Signature)

State of _____:

City and County of _____:

On this _____ day of _____, _____, before me, the undersigned officer, personally appeared _____, known to me to

be the person described in the foregoing Affidavit, and acknowledged that he (she)

executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

My Commission Expires: _____
(Notary Public) (SEAL)

APPENDIX B – DBE ENCLOSURES

ENCLOSURE 2 – SCHEDULE OF [DBE] PARTICIPATION

NAME OF CONTRACTOR: [•]

RTD Contract No.

Total Proposed Cost: US\$

DBE FIRM NAME	TYPE OF WORK (ELECTRICAL, PAVING, ETC.) AND CONTRACT ITEMS OR PART THEREOF TO BE PERFORMED	PROJECTED START & COMPLETION DATES FOR DBE	AGREED PRICE TO BE PAID TO DBE

1. Please list all DBEs involved on the contract including the Prime Contractor if it is a DBE. DBE must be certified in area of work specified on project; work performed for which they are not certified to perform will not count towards goal. A current DBE certification for each listed DBE must accompany this enclosure. Failure to provide proof of current DBE certification for any or all listed DBEs will eliminate such listed DBE's participation, and work performed by such DBE will not count towards satisfaction of the DBE Goal. If additional pages are required to list all contracted DBE, photocopy this enclosure as required to make a complete list.

2. Contracts with DBEs for materials or supplies will be counted toward the DBE Goal as follows:

- (i) materials or supplies obtained from a DBE manufacturer will be counted at 100% toward the DBE Goal; and
- (ii) materials or supplies obtained from a DBE regular dealer will be counted at 60% toward the DBE Goals. Please refer to 49 CFR §26.55 for specifics with respect to how DBE participation is counted toward DBE Goal.

3. Contractor must submit copies of all DBE subcontracts, purchase orders or change orders within 30 Days of execution of the notice to proceed. Failure to submit will result in a determination that no DBE participation credit shall a DBE work on the project or provide equipment, materials or supplies for DBE participation credit without an executed subcontract

agreement or purchase order.

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

RTD is required to create and maintain bidder statistics for all firms bidding on prime contracts and bidding or quoting Subcontracts on USDOT-assisted projects per 49 CFR Part 26.11. The Contractor is required to make copies of this form, send a copy with its initial contact to each Subcontractor (whether DBE or non-DBE) and require each Subcontractor to return a completed form with its Subcontract bid to the Contractor. The Contractor must submit all completed forms with each submission of DBE Enclosures to the SBO.

Firm Name:

Firm Address (Office Reporting):

Status as a DBE or Non-DBE (check one):

RTD DBE _____ Non-DBE _____

Annual Gross Receipts of the Firm: (check one):

U.S.\$0 to U.S.\$500,000 _____ U.S.\$500,000 to U.S.\$1,000,000 _____ U.S.\$1 Million to U.S.\$5 Million _____

U.S.\$5 Million to U.S.\$10 Million _____ U.S.\$10 Million to U.S.\$20.41 Million _____ Above U.S.\$20.41 Million _____

Age of the firm: _____

Signature: _____

Name:

Title:

Date: _____

Job Categories	<i>Total Employees in Establishment</i>			M = Male								F = Female			
				Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers															
Professionals															
Technicians															
Sales															
Office & Clerical															
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															

TOTAL															
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APPENDIX B, ENCLOSURE 5 – EMPLOYER CERTIFICATION OF WORKFORCE¹

The undersigned certifies that he/she is legally authorized to make the statements and representations contained in this report and that the statements and representations contained herein are true and correct to the best of his/her knowledge and belief.

Firm Name: _____

Owners (individuals or holding companies with any ownership interest in your firm):

Ownership Interest (by %)	Ethnicity (natural persons)	Gender (natural persons)

Signature: _____

Name:

Title:

Date of Execution: _____

Please note that this data may be obtained by visual survey or post-employment records. Neither visual surveys nor post-employment records are prohibited by Federal, State or local law. Current utilization as of _____:

¹ **NOTE: Submission of the Employer Certification of Workforce form is voluntary. Unless this form is marked ‘confidential’ upon submission, RTD cannot guarantee confidentiality of the information contained in this Employer Certification of Workforce form.**

DESCRIPTION OF JOB CATEGORIES

Officials and Managers – Occupations requiring administrative personnel who set board policies, exercise full responsibility for execution of these policies, and individual departments or special phases of the operations.

Professionals – Occupations requiring either college education or experience of such kind and amount as to provide a comparable background.

Technicians – Occupations requiring a combination of specific scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training.

Sales – Occupations engaging wholly or primarily in selling.

Office and clerical – Includes all clerical-type work, regardless of level of difficulty, where the activities are predominately non-manual though some manual work directly involved with altering or transporting the products is included.

Craft Worker (skilled) – Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercises considerable independent judgment and usually requires an extensive period of training.

Operatives (semi-skilled) – Workers who operate machines or processing equipment or perform other factory-related duties of intermediate skill level which can be mastered in a few weeks and require only limited training.

Laborers (unskilled) – Workers in manual occupations which generally require no special training perform rudimentary duties that may be learned in a few days and require the application of little or no independent judgment.

Service Workers – Workers in both protective and unprotective service occupations.

RACE/ETHNIC IDENTIFICATION

White (not Hispanic origin) – All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East

Black Americans (not Hispanic origin) – All persons having origins in any of the Black racial groups of Africa

Hispanic Americans – All persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race

Asian-Pacific Americans – All persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong

Subcontinent Asian Americans – All persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka

Native American – All persons having origins in any of the original peoples of North America, including American Indians, Eskimos, Aleuts, or Native Hawaiians

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APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

As part of RTD's ongoing outreach activities to the Denver metro Disadvantaged business community, it is our goal to identify and to establish a relationship with the Disadvantaged business outreach programs sponsored by the prime and subcontractors we partner with.

The prime and all contracted subcontractors are requested to provide the following information pertaining to their current DBE outreach efforts – additional sheets may be used if necessary:

RTD Contract Name and Number:

Contract No. (the **Contract**).

Proposer:

Subcontractor – if applicable:

Disadvantaged Business Outreach Contact (if none, list contact for the Contract):

Phone: _____ Fax: _____

Email: _____

Website: _____

Currently Sponsored Disadvantaged Business Outreach Activities:

How can RTD assist you in your current Disadvantaged business outreach efforts?

Would you be interested becoming involved in current and future RTD-sponsored outreach activities and committees: [] Yes [] No

If so, how? _____

APPENDIX B, ENCLOSURE 7– DBE UNAVAILABILITY CERTIFICATION

I, _____,
 _____,

Name Title

of _____, certify that [the Contractor}, made the following efforts to meet the DBE Goals on Regional Transportation District Contract No. for the Project:

[please attach any additional efforts that do not fit on this form]

▪ A Contractor representative attended the pre-bid meeting. Yes _____ No _____

▪ Newspaper Advertisement Log: (attach copies of ads)

Newspaper/Publication	Type of Publication Minority/General/Trade	Dates of Advertisement

▪ Selected portions of the work to be performed by [DBEs]

Work Categories	Type of Bid (Subcontractor or Supplier)	Contractor's Estimated Budget	Additional Comments

▪ Made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance or any necessary equipment, supplies, materials, etc.

▪ [List any specific offers made by Contractor]

--

- Solicited the following DBEs

Date Contacted	Name of DBE Firm	Contact Person	Phone #	Work Category

- Followed up with initial contacts

Date	Name of DBE	Phone #	Bidding (Yes or No)	Additional Comments

- Contacted the following other agencies, organizations in recruitment of DBE including RTD:

Date	Organization	Phone #

As shown by the documentation provided to RTD, we feel that we have made good faith effort to attain the DBE Goals.

Signature: _____

Date: _____

APPENDIX B, ENCLOSURE 7– DBE UNAVAILABILITY CERTIFICATION

I, _____,

Name _____ Title _____

of _____, certify that [*the Contractor*], made the following efforts to meet the DBE Goals on Regional Transportation District Contract No. for the Project:

[*please attach any additional efforts that do not fit on this form*]

- A Contractor representative attended the pre-bid meeting. Yes _____ No _____

- Newspaper Advertisement Log: (attach copies of ads)

Newspaper/Publication	Type of Publication Minority/General/Trade	Dates of Advertisement

- Selected portions of the work to be performed by [DBEs]

Work Categories	Type of Bid (Subcontractor or Supplier)	Contractor's Estimated Budget	Additional Comments

- Made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance or any necessary equipment, supplies, materials, etc.
- [*List any specific offers made by Contractor*]

--

- Solicited the following DBEs

Date Contacted	Name of DBE Firm	Contact Person	Phone #	Work Category

- Followed up with initial contacts

Date	Name of DBE	Phone #	Bidding (Yes or No)	Additional Comments

- Contacted the following other agencies, organizations in recruitment of DBE including RTD:

Date	Organization	Phone #

As shown by the documentation provided to RTD, we feel that we have made good faith effort to attain the DBE Goals.

Signature: _____

Date: _____

Exhibit G – FTA FY 2015 Certifications and Assurances

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

PREFACE

Except as the Federal Transit Administration (FTA or We) determines otherwise in writing, before FTA may award Federal transit assistance (funding or funds) in the form of a Federal Grant, Cooperative Agreement, Loan, Line of credit, or Loan Guarantee to support a public transportation Project, an Authorized Representative (You) of the Project Sponsor (Applicant) must select certain Certifications and Assurances required by Federal law or regulation. Among other things, the Authorized Representative must be duly authorized by the Applicant to sign these Certifications and Assurances and bind its compliance. You, as your Applicant's Authorized Representative, must select all Certifications and Assurances that your Applicant must provide to support its application(s) for FTA funding during Federal fiscal year (FY) 2015.

We request that you read each Certification and Assurance and select those that will apply to all Projects for which your Applicant might seek FTA funding. As required by Federal law and regulation, only if you select adequate Certifications and Assurances on your Applicant's behalf, may FTA award Federal funding for its Project.

We have consolidated our Certifications and Assurances into twenty-four (24) Groups. At a minimum, you must select the Assurances in Group 01 on your Applicant's behalf. If your Applicant requests more than \$100,000 in Federal funding, you must also select the "Lobbying" Certification in Group 02, unless your Applicant is an Indian tribe, Indian organization, or a tribal organization. Depending on the nature of your Applicant and its Project, you may also need to select some Certifications and Assurances in Groups 03 through 24. Instead of selecting individual Groups of Certifications and Assurances, however, you may make a single selection that will encompass all twenty-four (24) Groups of Certifications and Assurances that apply to all our programs.

FTA, your Applicant, and you, as your Applicant's Authorized Representative, understand and agree that not every provision of these twenty-four (24) Groups of Certifications and Assurances will apply to every Applicant or every Project FTA funds, even if you make a single selection encompassing all twenty-four (24) Groups. Nor will every provision of all Certifications and Assurances within a single Group apply if that provision does not apply to your Applicant or its Project. The type of Project and Applicant will determine which Certifications and Assurances apply.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and each Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Except as FTA determines otherwise in writing, if your Applicant is a team, consortium, joint venture, or partnership, it understands and agrees that you must identify the activities each member will perform and the extent to which each will be responsible for compliance with the Certifications and Assurances that you select on its behalf, and whether the member will serve as a Recipient, Subrecipient, or Third Party Contractor.

It is important that your Applicant and you also understand that these Certifications and Assurances are pre-award requirements, generally imposed by Federal law or regulation, and do not include all Federal requirements that may apply to it or its Project. Our FTA Master Agreement for Federal FY 2015, MA(21), is available at <http://www.fta.dot.gov>, and contains a list of most of those requirements.

We expect you to submit your Applicant's FY 2015 Certifications and Assurances and its applications for funding in TEAM-Web. You must be registered in TEAM-Web to submit the FTA FY 2015 Certifications and Assurances on its behalf. The TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of the "View/Modify Recipients" page contains fields for selecting among the twenty-four (24) Groups of Certifications and Assurances and a designated field for selecting all twenty-four (24) Groups of Certifications and Assurances. If FTA agrees that you cannot submit your Applicant's FY 2015 Certifications and Assurances electronically, you must submit the Signature Pages at the end of this document, as FTA directs, marked to show the Groups of Certifications and Assurances that it is submitting.

Be aware that these Certifications and Assurances have been prepared in light of:

- *FTA's latest authorization legislation, Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, June 6, 2012,*
- *FTA's authorizing legislation in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply,*
- *The Highway and Transportation Funding Act of 2014, Pub. L. 113-159, August 8, 2014, and*
- *Continuing Appropriations Resolution, 2015, Pub. L. 113-164, September 19, 2014 and other Appropriations Acts or Continuing Resolutions funding the Department of Transportation during Fiscal Year 2015.*

With certain exceptions, Projects financed in FY 2015 with funds appropriated or made available for FY 2012 or a previous fiscal year must be in compliance with the requirements for that type of Project in effect during the fiscal year for which the funding was derived, except as superseded by MAP-21 cross-cutting requirements that apply.

GROUP 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide funding for your Applicant's Project, in addition to any other Certifications and Assurances that you must select on your Applicant's behalf, you must

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

also select the Certifications and Assurances in Group 01, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 01 that does not apply will not be enforced.

01.A. Certification and Assurance of Authority of the Applicant and Its Authorized Representative.

You certify and affirm that both you, as your Applicant's Authorized Representative, and your Applicant's attorney, who is authorized to represent your Applicant in legal matters, who sign these Certifications, Assurances, and Agreements, may undertake the following activities on its behalf, in compliance with applicable State, local, or Indian tribal laws and regulations, and its by-laws or internal rules:

1. Execute and file its application for Federal funds,
2. Execute and file its Certifications, Assurances, Charter Service Agreement, and School Bus Agreement, as applicable, binding its compliance,
3. Execute the Grant Agreement, Cooperative agreement, Loan, Loan Guarantee, or Line of Credit, for which the Applicant is seeking FTA funding,
4. Comply with applicable Federal laws and regulations, and
5. Follow applicable Federal guidance.

01.B. Standard Assurances.

On behalf of your Applicant, you assure that it understands and agrees to the following:

1. It will comply with all applicable Federal statutes and regulations to carry out any FTA-funded Project,
2. It is under a continuing obligation to comply with the terms and conditions of its Grant Agreement or Cooperative Agreement with FTA for its Project, including the FTA Master Agreement incorporated by reference and made part of the latest amendment to that Grant Agreement or Cooperative Agreement,
3. It recognizes that Federal laws and regulations may be amended from time to time and those amendments may affect Project implementation,
4. It understands that Presidential executive orders and Federal guidance, including Federal policies and program guidance, may be issued concerning matters affecting it or its Project,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

5. It agrees that the most recent Federal laws, regulations, and guidance will apply to its Project, except as FTA determines otherwise in writing,
6. Except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the funding for those programs was appropriated:
 - a. In some instances, FTA has determined that Federal statutory or regulatory program and eligibility requirements for FY 2012 or a specific previous fiscal year, except as superseded by applicable MAP-21 cross-cutting requirements, apply to:
 - (1) New Grants and Cooperative Agreements, and
 - (2) New Amendments to Grants and Cooperative Agreements that:
 - (a) Have been awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, or
 - (b) May be awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, but
 - b. In other instances, FTA has determined that MAP-21 requirements will apply to Federal funds appropriated or made available for FY 2012 or a previous fiscal year, and
 - c. For all FTA-funded Projects, the following MAP-21 cross-cutting requirements supersede and apply in lieu of conflicting provisions of previous Federal law and regulations:
 - (1) Metropolitan and Statewide and Nonmetropolitan Transportation Planning,
 - (2) Environmental Review Process,
 - (3) Public Transportation Agency Safety Plans,
 - (4) Transit Asset Management Provisions (and Asset Inventory and Condition Reporting),
 - (5) Costs Incurred by Providers of Public Transportation by Vanpool,
 - (6) Revenue Bonds as Local Match,
 - (7) Debt Service Reserve,
 - (8) Government's Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance,
 - (9) Private Sector Participation,
 - (10) Bus Testing,
 - (11) Buy America,
 - (12) Corridor Preservation,
 - (13) Rail Car Procurements,
 - (14) Veterans Preference/Employment,
 - (15) Alcohol and Controlled Substance Testing, and
 - (16) Other provisions as FTA may determine.¹

¹ More information about these matters appears in the Federal Transit Administration, "Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and FTA FY 2013 Apportionments, Allocations, Program Information and Interim Guidance," 77 Fed. Reg. 663670, Oct. 16, 2012.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

01.C. Intergovernmental Review Assurance.

(This assurance in Group 01.C does not apply to an Indian tribe, an Indian organization or a tribal organization that applies for funding made available for 49 U.S.C. 5311(c)(1), which authorizes FTA's Tribal Transit Programs.)

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that it has submitted or will submit each application for Federal funding to the appropriate State and local agencies for intergovernmental review, to facilitate compliance with those regulations.

01.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws and regulations so that no person in the United States will be denied the benefits of, or otherwise be subjected to, discrimination in any U.S. DOT or FTA-funded program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age:
 - a. Federal transit laws, specifically 49 U.S.C. 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex, disability, age, employment, or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d,
 - c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*,
 - d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - e. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
 - f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - g. Any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated,
2. It will comply with Federal guidance implementing Federal nondiscrimination laws and regulations, except to the extent FTA determines otherwise in writing,
3. As required by 49 CFR 21.7:
 - a. It will comply with 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 in the manner:
 - (1) It conducts each Project,
 - (2) It undertakes property acquisitions, and
 - (3) It operates all parts of its facilities, as well as its facilities operated in connection with its Project,
 - b. This assurance applies to its entire Project and to all parts of its facilities, as well as its facilities operated to implement its Project,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- c. It will promptly take the necessary actions to carry out this assurance, including the following:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request,
- d. If it transfers FTA-funded real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the Federal funding is extended, or
 - (2) While the property is used for another purpose involving the provision of similar services or benefits,
- e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, or
 - (3) This assurance,
- f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit laws, 49 U.S.C. 5332,
- g. It will comply with applicable Federal guidance issued to implement Federal nondiscrimination requirements, except as FTA determines otherwise in writing,
- h. It will extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
 - (1) Subrecipient,
 - (2) Transferee,
 - (3) Third Party Contractor or Subcontractor at any tier,
 - (4) Successor in Interest,
 - (5) Lessee, or
 - (6) Other participant in its Project, except FTA and the Applicant (that later becomes the Recipient),
- i. It will include adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party agreement, including each:
 - (1) Subagreement at any tier,
 - (2) Property transfer agreement,
 - (3) Third party contract or subcontract at any tier,
 - (4) Lease, or
 - (5) Participation agreement, and
- j. The assurances you have made on its behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:

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- (1) Federal funding is extended to its Project,
 - (2) Its Project property is used for a purpose for which the Federal funding is extended,
 - (3) Its Project property is used for a purpose involving the provision of similar services or benefits,
 - (4) It retains ownership or possession of its Project property, or
 - (5) FTA may otherwise determine in writing, and
4. As required by U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27, specifically 49 CFR 27.9, and consistent with 49 U.S.C. 5307(c)(1)(D)(ii), you assure that:
- a. It will comply with the following prohibitions against discrimination on the basis of disability listed below in subsection 4.b of this Group 01.D Assurance, of which compliance is a condition of approval or extension of any FTA funding awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in any benefit or obtain any benefit from any FTA administered program, and
 - b. In any program or activity receiving or benefiting from Federal funding that U.S. DOT administers, no qualified people with a disability will, because of their disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

01.E. Suspension and Debarment Certification.

On behalf of your Applicant, you certify that:

1. It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 - (1) Debarred,
 - (2) Suspended,
 - (3) Proposed for debarment,
 - (4) Declared ineligible,

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- (5) Voluntarily excluded, or
- (6) Disqualified,
- b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 - (2) Violation of any Federal or State antitrust statute, or
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
- c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 1.E.2.b of this Certification,
- d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
- e. If, at a later time, it receives any information that contradicts the preceding statements of subsections 2.a – 2.d of this Group 01.E Certification, it will promptly provide that information to FTA,
- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - (1) Equals or exceeds \$25,000,
 - (2) Is for audit services, or
 - (3) Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor:
 - (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - (a) Debarred from participation in its federally-funded Project,
 - (b) Suspended from participation in its federally-funded Project,
 - (c) Proposed for debarment from participation in its federally-funded Project,
 - (d) Declared ineligible to participate in its federally-funded Project,
 - (e) Voluntarily excluded from participation in its federally-funded Project, or
 - (f) Disqualified from participation in its federally-funded Project, and
- 5. It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Group 01.E Certification.

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01.F. U.S. OMB Assurances in SF-424B and SF-424D.

The assurances in Group 01.F are consistent with the U.S. OMB assurances required in the U.S. OMB SF-424B and SF-424D, and updated as necessary to reflect changes in Federal laws and regulations.

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
 - a. For every Project described in any application it submits for Federal funding, it has adequate resources to properly plan, manage, and complete its Project, including the:
 - (1) Legal authority to apply for Federal funding,
 - (2) Institutional capability,
 - (3) Managerial capability, and
 - (4) Financial capability (including funds sufficient to pay the non-Federal share of Project cost),
 - b. As required, it will give access and the right to examine Project-related materials to entities or individuals including, but not limited to the:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and
 - (3) State, through an appropriate authorized representative,
 - c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance, and
 - d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest, or personal gain, or
 - (2) The appearance of a personal or organizational conflict of interest or personal gain,
2. *Project Specifics.* On behalf of your Applicant, you assure that:
 - a. Following receipt of an FTA award, it will begin and complete Project work within the time periods that apply,
 - b. For FTA-funded construction Projects:
 - (1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms with the approved plans and specifications,
 - (3) It will include a covenant to assure nondiscrimination during the useful life of its Project in its title to federally-funded real property,
 - (4) To the extent FTA requires, it will record the Federal interest in the title to FTA-funded real property or interests in real property, and
 - (5) It will not alter the site of the FTA-funded construction Project or facilities without permission or instructions from FTA by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,

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- (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities, and
 - c. It will furnish progress reports and other information as FTA or the State may require, and
- 3. *Statutory and Regulatory requirements.* On behalf of your Applicant, you assure that:
 - a. It will comply with all Federal statutes relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) The prohibitions against discrimination on the basis of sex, as provided in:
 - (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 – 1683, and 1685 – 1687, and
 - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR part 25,
 - (3) The prohibitions against discrimination on the basis of age in federally-funded programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 – 6107,
 - (4) The prohibitions against discrimination on the basis of disability in federally-funded programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794,
 - (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*,
 - (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*,
 - (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*,
 - (9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. 290dd – 290dd-2, and
 - (10) The nondiscrimination provisions of any other statute(s) that may apply to its Project,
 - b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. 4601 *et seq.*, and 49 U.S.C. 5323(b), regardless of whether Federal funding has been provided for any of the real property acquired for Project purposes:

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- (1) It will provide for fair and equitable treatment of any displaced persons, or any persons whose property is acquired as a result of federally-funded programs,
- (2) It has the necessary legal authority under State and local laws and regulations to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. 4601 *et seq.*, as specified by 42 U.S.C. 4630 and 4655, and
 - (b) U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, specifically 49 CFR 24.4, and
- (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
 - (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24,
 - (b) As required by 42 U.S.C. 4622, 4623, and 4624, and 49 CFR part 24, if an FTA-funded Project results in displacement, it will provide fair and reasonable relocation payments and assistance to:
 - 1 Displaced families or individuals, and
 - 2 Displaced corporations, associations, or partnerships,
 - (c) As provided by 42 U.S.C. 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such:
 - 1 Displaced families and individuals, and
 - 2 Displaced corporations, associations, or partnerships,
 - (d) As required by 42 U.S.C. 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals,
 - (e) It will:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin,
 - (f) It will be guided by the real property acquisition policies of 42 U.S.C. 4651 and 4652,
 - (g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will provide Federal funding for its eligible costs for providing payments for those expenses, as required by 42 U.S.C. 4631,
 - (h) It will execute the necessary implementing amendments to FTA-funded third party contracts and subagreements,
 - (i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances,

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- (j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, relating to any FTA-funded Project involving relocation or land acquisition, and
 - (k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions,
- c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures,
- d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by Federal funding of:
 - (1) The National Research Act, as amended, 42 U.S.C. 289 *et seq.*, and
 - (2) U.S. DOT regulations, “Protection of Human Subjects,” 49 CFR part 11,
- e. It will, to the extent applicable, comply with the labor standards and protections for federally-funded Projects of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. 3141 – 3144, 3146, and 3147,
 - (2) Sections 1 and 2 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. 874, and 40 U.S.C. 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*,
- f. It will comply with any applicable environmental standards prescribed to implement Federal laws and executive orders, including, but not limited to:
 - (1) Complying with the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 – 4335 and following Executive Order No. 11514, as amended, 42 U.S.C. 4321 note,
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. 7606 note,
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. 4321 note,
 - (4) Following the evaluation of flood hazards in floodplains provisions of Executive Order No. 11988, 42 U.S.C. 4321 note,
 - (5) Complying with the assurance of Project consistency with the approved State management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 – 1465,
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 – 7671q,
 - (7) Complying with the protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6,
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 – 1544,

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- (9) Complying with the environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation Project, as required by 49 U.S.C. 303 (also known as “Section 4f”),
- (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 – 1287, and
- (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f,
 - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 – 469c, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note,
- g. To the extent applicable, it will comply with the following Federal requirements for the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported by Federal funding:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, “Animal Welfare,” 9 CFR subchapter A, parts 1, 2, 3, and 4,
- h. To the extent applicable, it will obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically 49 CFR 41.117(d), before accepting delivery of any FTA-funded building,
- i. It will comply with, and assure that its Subrecipients located in special flood hazard areas comply with, section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), by:
 - (1) Participating in the Federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more,
- j. It will comply with:
 - (1) The Hatch Act, 5 U.S.C. 1501 – 1508, 7324 – 7326, which limits the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds, including a Federal Loan, Grant Agreement, or Cooperative Agreement, and
 - (2) 49 U.S.C. 5323(1)(2) and 23 U.S.C. 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA funding appropriated or made available for 49 U.S.C. chapter 53 and 23 U.S.C. 142(a)(2) to whom the Hatch Act does not otherwise apply,

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- k. It will perform the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*,
 - (2) U.S. OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” Revised, and
 - (3) Most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT,
- l. It will comply with all other Federal laws or regulations that apply, and
- m. It will follow Federal guidance governing it and its Project, except to the extent that FTA has expressly approved otherwise in writing.

GROUP 02. LOBBYING.

Before FTA may provide funding for a Federal Grant or Cooperative Agreement exceeding \$100,000 or a Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance exceeding \$150,000, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Lobbying Certifications in Group 02, unless your Applicant is an Indian Tribe exempt from the requirements of 31 U.S.C. 1352 or FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 02 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

- 1. As required by 31 U.S.C. 1352 and U.S. DOT regulations, “New Restrictions on Lobbying,” specifically 49 CFR 20.110:
 - a. The lobbying restrictions of this Certification apply to its requests:
 - (1) For \$100,000 or more in Federal funding for a Grant or Cooperative Agreement, and
 - (2) For \$150,000 or more in Federal funding for a Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
 - b. Your Certification on its behalf applies to the lobbying activities of:
 - (1) It,
 - (2) Its Principals, and
 - (3) Its Subrecipients at the first tier,
- 2. To the best of your knowledge and belief:
 - a. No Federal appropriated funds have been or will be paid by your Applicant or on its behalf to any person to influence or attempt to influence:

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- (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, or
- (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance,
- b. It will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with its instructions, if any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
 - (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, or
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
- c. It will include the language of this Certification in the award documents for all subawards at all tiers, including, but not limited to:
 - (1) Third party contracts,
 - (2) Subcontracts,
 - (3) Subagreements, and
 - (4) Other third party agreements under a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance,
3. It understands that:
 - a. This Certification is a material representation of fact that the Federal Government relies on, and
 - b. It must submit this Certification before the Federal Government may award funding for a transaction covered by 31 U.S.C. 1352, including a:
 - (a) Federal Grant or Cooperative Agreement, or
 - (b) Federal Loan, Line of Credit, Loan Guarantee, or Loan Insurance, and
4. It also understands that any person who does not file a required Certification will incur a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

GROUP 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

We request that you select the Procurement and Procurement Systems Certification in Group 03 on behalf of your Applicant, especially if your Applicant is a State, local, or Indian tribal government with a certified procurement system, as provided in 49 CFR 18.36(g)(3)(ii).

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Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certification in Group 03 that does not apply will not be enforced.

On behalf of your Applicant, you certify that its procurements and its procurement system will comply with all Federal laws and regulations in accordance with applicable Federal guidance, except to the extent FTA has approved otherwise in writing.

GROUP 04. PRIVATE SECTOR PROTECTIONS.

Before FTA may provide funding for a Project that involves the acquisition of public transportation property or operation of public transportation facilities or equipment, in addition to other Certifications you must select on your Applicant's behalf, you must also select the Private Property Protections Assurances in Group 04.A and enter into the Agreements in Group 04.B and Group 04.C on behalf of your Applicant, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurances and Agreements in Group 04 that does not apply will not be enforced.

04.A. Private Property Protections.

If your Applicant is a State, local government, or Indian tribal government and seeks FTA funding to acquire the property of a private transit operator or operate public transportation in competition with or in addition to a public transportation operator, the Private Property Protections Assurances in Group 04.A apply to your Applicant, except as FTA determines otherwise in writing.

To facilitate FTA's ability to make the findings required by 49 U.S.C. 5323(a)(1), on behalf of your Applicant, you assure that:

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1. It has or will have:
 - a. Determined that the funding is essential to carrying out a Program of Projects as required by 49 U.S.C. 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under State or local laws to the company for any franchise or property acquired, and
2. It has completed the actions described in the preceding section 1 of this Group 04.A Certification before it:
 - a. Acquires the property or an interest in the property of a private provider of public transportation, or
 - b. Operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

04.B. Charter Service Agreement.

If your Applicant seeks FTA funding to acquire or operate transit facilities or equipment, the Charter Service Agreement in Group 04.B applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," 49 CFR part 604, specifically 49 CFR 604.4, on behalf of your Applicant, you are entering into the following Charter Service Agreement:

1. FTA's "Charter Service" regulations apply as follows:
 - a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired by Recipients of FTA funding for transportation Projects with Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - b. FTA's charter service restrictions extend to:
 - (1) Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. 133 or 142, or
 - (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - (2) Any Third Party Participant that receives Federal funding derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53,
 - (b) 23 U.S.C. 133 or 142, or

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- (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any Tier, and
 - (4) Other Third Party Participant in its Project,
 - d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives Federal public transportation assistance appropriated or made available for its Project will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. 5323(d) and (g),
 - (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. 5323(d) and (g),
 - (3) Any other Federal Charter Service regulations, or
 - (4) Federal guidance, except as FTA determines otherwise in writing,
 - e. You and your Applicant agree that the latest Charter Service Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
 - f. You and your Applicant agree that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives FTA funding appropriated or made available for its Project that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (a) Conducting charter operations prohibited by Federal transit laws and FTA's Charter Service regulations, or
 - (b) Otherwise violating its Charter Service Agreement it has elected in its latest annual Certifications and Assurances, and
 - (2) These corrective measures and remedies may include:
 - (a) Barring it or any Third Party Participant operating public transportation under the Project that has provided prohibited charter service from receiving FTA funds,
 - (b) Withholding an amount of Federal funds as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply, and
2. In addition to the exceptions to the restrictions in FTA's Charter Service Regulations, FTA has established the following additional exceptions to those restrictions:
- a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5307 and 5311, to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under repealed 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that FTA funding for those program purposes only,

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- b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5310, to be used for New Freedom activities that would have been eligible for assistance under repealed 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that FTA funding for those program purposes only, and
- c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally-funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. 5323(r).

04.C. School Bus Agreement.

If your Applicant seeks FTA funding to acquire or operate transit facilities or equipment, the School Bus Agreement in Group 04.C applies to your Applicant, except as FTA determines otherwise in writing.

To comply with 49 U.S.C. 5323(f) and (g) and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g), on behalf of your Applicant, you are entering into the following School Bus Agreement:

- 1. FTA's "School Bus Operations" regulations restrict school bus operations using facilities and equipment acquired with Federal funding derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53,
 - b. 23 U.S.C. 133 or 142, or
 - c. Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
- 2. FTA's school bus operations restrictions extend to:
 - a. Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - b. Any Third Party Participant that receives Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53,
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
- 3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Other Third Party Participant in the Project,

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4. You and your Applicant agree, and will obtain the agreement of any Third Party Participant involved in your Applicant's Project, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(f) and (g),
 - b. FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g),
 - c. Any other Federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing,
5. You and your Applicant agree that the latest School Bus Agreement you have selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
6. You and your Applicant agree that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar your Applicant or Third Party Participant from receiving further Federal transit funds, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

GROUP 05. ROLLING STOCK REVIEWS AND BUS TESTING.

Before FTA may provide funding for a Project to acquire rolling stock for use in revenue service or to acquire a new bus model, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Rolling Stock Reviews and Bus Testing Certifications in Group 05, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 05 that does not apply will not be enforced.

05.A. Rolling Stock Reviews.

If your Applicant seeks FTA funding to acquire rolling stock for use in revenue service, the Rolling Stock Reviews Certifications in Group 05.A apply to your Applicant, except as FTA determines otherwise in writing.

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On behalf of your Applicant, you certify that when procuring rolling stock for use in revenue service:

1. It will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(m), and
 - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR 663.7:
 - a. It will conduct or cause to be conducted the required pre-award and post-delivery reviews, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

05.B. Bus Testing.

If your Applicant seeks FTA funding to acquire a new bus model, the Bus Testing Certifications in Group 05.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. Bus Testing requirements apply to all acquisitions of new buses and new bus models that require bus testing as defined in FTA's Bus Testing regulations, and it will comply with:
 - a. 49 U.S.C. 5318, and
 - b. FTA regulations, "Bus Testing," 49 CFR part 665, to the extent these regulations are consistent with 49 U.S.C. 5318,
2. As required by 49 CFR 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration:
 - a. It will not spend any Federal funds appropriated under 49 U.S.C. chapter 53 to acquire that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared on that new bus or new bus model, and
 - b. It will not authorize final acceptance of that new bus or new bus model until:
 - (1) That new bus or new bus model has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared on that new bus or new bus model,
3. It will ensure that the new bus or new bus model that is tested has met the performance standards consistent with those regulations, including:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),

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- (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
- b. Minimum safety performance standards established under 49 U.S.C. 5329, and
4. After FTA regulations authorized by 49 U.S.C. 5318(e)(2) are in effect, it will ensure that the new bus or new bus model that is tested has received a passing aggregate test score under the “Pass/Fail” standard established by regulation.

GROUP 06. DEMAND RESPONSIVE SERVICE.

If your Applicant is a public entity, operates demand responsive service, and seeks FTA funding to acquire a non-rail vehicle that is not accessible, before FTA may provide funding for that Project, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Demand Responsive Service Certifications in Group 06, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 06 that does not apply will not be enforced.

As required by U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37, specifically 49 CFR 37.77(d), on behalf of your Applicant, you certify that:

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities, and
2. Viewed in its entirety, its service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

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GROUP 07. INTELLIGENT TRANSPORTATION SYSTEMS.

Before FTA may provide funding for an Intelligent Transportation Systems (ITS) Project or a Project in support of an ITS Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Intelligent Transportation Systems Assurances in Group 07, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurances in Group 07 that does not apply will not be enforced.

On behalf of your Applicant, you and your Applicant:

1. Understand that, as used in this Assurance, the term Intelligent Transportation Systems (ITS) Project is defined to include any Project that, in whole or in part, finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture," and
2. Assure that, as provided in 23 U.S.C. 517(d), any ITS Project it undertakes funded with appropriations made available from the Highway Trust Fund, including amounts made available to deploy ITS facilities or equipment, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. 517(a) or (c), unless it obtains a waiver as provided in 23 U.S.C. 517(d)(2).

GROUP 08. INTEREST AND FINANCING COSTS AND ACQUISITION OF CAPITAL ASSETS BY LEASE.

Before FTA may provide funding appropriated or made available for 49 U.S.C. chapter 53 to support interest, or financing, or leasing costs of any Project financed under the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, or another program as FTA may specify, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 08, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in

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writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 08 that does not apply will not be enforced.

08.A. Interest and Financing Costs.

If your Applicant intends to use FTA funding to support interest or any other financing costs for Projects funded by the Urbanized Area Formula Grants Program, Fixed Guideway Capital Investment Grants Program, or another program as FTA may specify, the Interest and Financing Costs Certifications in Group 08.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that:

1. It will not seek reimbursement for interest or any other financing costs unless:
 - a. It is eligible to receive Federal funding for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, to the extent FTA may require, and
2. It will comply with the same favorable financing cost provisions for:
 - a. Urbanized Area Formula Grants Projects,
 - b. Projects under Full Funding Grant Agreements,
 - c. Projects with Early Systems Work Agreements,
 - d. Fixed Guideway Capital Investment Projects funded by previous FTA enabling legislation,
 - e. State of Good Repair Projects,
 - f. Bus and Bus Facilities Projects, and
 - g. Low or No Emission Vehicle Development Projects.

08.B. Acquisition of Capital Assets by Lease.

If your Applicant seeks FTA funding to acquire capital assets through a lease, the Acquisition of Capital Assets by Lease Certifications and Assurances in Group 08.B applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, specifically 49 CFR 639.15(b)(1) and 49 CFR 639.21, if your Applicant acquires any capital asset through a lease financed with Federal funding appropriated or made available for 49 U.S.C. chapter 53:

1. It will not use Federal funding appropriated or made available for public transportation Projects eligible under 49 U.S.C. chapter 53 or any other applicable law to finance the cost of leasing any capital asset until:

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- a. It performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset, and
- b. It completes these calculations before the later of:
 - (1) Entering into the lease, or
 - (2) Receiving a capital grant for the asset, and
2. It will not enter into a capital lease for which FTA can provide only incremental Federal funding unless it has adequate financial resources to meet its future lease obligations if Federal funding is not available.

GROUP 09. TRANSIT ASSET MANAGEMENT PLAN AND PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.

Before FTA may provide funding appropriated or made available for 49 U.S.C. chapter 53 to support your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 09, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 09 that does not apply will not be enforced.

09.A. Transit Asset Management Plan.

If your Applicant applies for funding appropriated or made available for 49 U.S.C. chapter 53, the Transit Asset Management Certifications in Group 09.A apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it and each Subrecipient will:

1. Follow Federal guidance when issued that implements transit asset management system provisions of 49 U.S.C. 5326, except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations when issued that implement the transit asset management provisions of 49 U.S.C. 5326.

09.B. Public Transportation Agency Safety Plan.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State government, local government, or any other operator of a public transportation system,

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the Public Transportation Safety Plan Certifications in Group 09.B apply to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify that it will:

1. Follow the Federal guidance, when issued, that will implement the safety plan provisions of 49 U.S.C. 5329(d), except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If your Applicant must comply with the alcohol and controlled substance testing requirements of 49 U.S.C. 5331 and its implementing regulations, before FTA may provide funding for your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 10, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 10 that does not apply will not be enforced.

As required by 49 U.S.C. 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR 655.83, on behalf of your Applicant, including a State Applicant, and on behalf of its Subrecipients and Third Party Contractors, you certify that:

1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program,
2. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. 5331, and
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or Third Party Contractors to which these testing requirements apply reside in a State that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have complied

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or will comply with the Federal controlled substance testing requirements of 49 CFR part 655.

GROUP 11. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS PROGRAM (NEW STARTS, SMALL STARTS, AND CORE CAPACITY), AND CAPITAL INVESTMENT PROGRAM IN EFFECT BEFORE MAP-21 BECAME EFFECTIVE.

The Certifications in Group 11 apply to the New Starts, Small Starts, or Core Capacity Programs, 49 U.S.C. 5309.

Before FTA may provide funding for your Applicant's New Starts, Small Starts, or Core Capacity Project in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 11, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 11 that does not apply will not be enforced.

Except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following capabilities to carry out its proposed Project(s), including the safety and security aspects of the Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

GROUP 12. STATE OF GOOD REPAIR PROGRAM.

Certain Certifications and Assurances listed previously are required for the State of

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Good Repair Program funding under 49 U.S.C. 5337.

Before FTA may provide funding for your Applicant's Project under the State of Good Repair Program, 49 U.S.C. 5337, for your Applicant's Project, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 12, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurance in Group 12 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

GROUP 13. FIXED GUIDEWAY MODERNIZATION GRANT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Fixed Guideway Modernization Grant Program, former 49 U.S.C. 5309 in effect in FY 2012 or a previous fiscal year, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 13, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each

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Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certification in Group 13 that does not apply will not be enforced.

Former 49 U.S.C. 5309(b)(2) and former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, require the following Certifications for Fixed Guideway Modernization Grant Program funding; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately, and
4. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304.

GROUP 14. BUS AND BUS FACILITIES FORMULA GRANTS PROGRAM AND BUS AND BUS-RELATED EQUIPMENT AND FACILITIES GRANT PROGRAM (DISCRETIONARY).

The Certifications in Group 14 are required for funding under:

- 14.A. *The Bus and Bus Facilities Formula Grants Program, 49 U.S.C. 5339, as amended by MAP-21, and*
- 14.B. *The Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary), former 49 U.S.C. 5309(b)(3) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 14, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the

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applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 14 that does not apply will not be enforced.

14.A. Bus and Bus Facilities Formula Grants Program

If your Applicant seeks FTA funding for its Project under the Bus and Bus Facilities Formula Grants Program, 49 U.S.C. 5339, the Certifications in Group 14.A below apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for Bus and Bus Facilities Formula Grants Program funding are required by 49 U.S.C. 5339(b), which states that “[t]he requirements of section 5307 apply to recipients of grants made under this section [5339]”; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment financed under 49 U.S.C. 5339, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C. 5339, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - a. Has made or will make available to the public information on amounts of its funding available to it under 49 U.S.C. 5339,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,

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- c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other Federal Government sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. Has made or will make the final Program of Projects available to the public,
7. As required by 49 U.S.C. 5307(d), it:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It will comply with:
- a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
9. It has a locally developed process to solicit and consider public comment before:
- a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

14.B. Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary).

If your Applicant seeks FTA funding for its Project under the Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary), former 49 U.S.C. 5309 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 14.B below apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary) funding are required by former 49 U.S.C. 5309(c)(2), which applies the requirements of former 49 U.S.C. 5307(d)(1)(A), (B), (C), and (H), in effect in FY 2012 or a previous fiscal year to this Program, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those Project(s):
 - a. Legal capacity,

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- b. Financial capacity, and
- c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately, and
- 4. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304.

GROUP 15. URBANIZED AREA FORMULA GRANTS PROGRAMS, PASSENGER FERRY GRANT PROGRAM, AND JOB ACCESS AND REVERSE COMMUTE (JARC) FORMULA GRANT PROGRAM.

The Certifications in Group 15 are required for funding under:

- 15.A. *The Urbanized Area Formula Grants Program financed with funds appropriated or made available for 49 U.S.C. 5307, as amended by MAP-21, which among other things, authorizes funding for Job Access and Reverse Commute (JARC) Projects and Project Activities,*
- 15.B. *The Urbanized Area Formula Grants Program financed with funds appropriated or made available for former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply,*
- 15.C. *The Passenger Ferry Grant Program financed with funds appropriated or made available for 49 U.S.C. 5307(h), as amended by MAP-21, and*
- 15.D. *The Job Access and Reverse Commute (JARC) Formula Grant Program financed with funds appropriated or made available for former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 15, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 15 that does not apply will not be enforced.

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15.A. Urbanized Area Formula Grants Program under MAP-21.

If your Applicant seeks FTA funding for its Project under the Urbanized Area Formula Grants Program, 49 U.S.C. 5307, as amended by MAP-21, the Certifications in Group 15.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Urbanized Area Formula Grants Program funding appropriated or made available in FYs 2013, 2014, and 2015 are required by 49 U.S.C. 5307(c)(1); therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment financed under 49 U.S.C. 5339, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C. 5307, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - a. Has made or will make available to the public information on amounts of its funding available to it under 49 U.S.C. 5307,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,

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- d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other Federal Government sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. Has made or will make the final Program of Projects available to the public,
7. As required by 49 U.S.C. 5307(d), it:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
 8. As required by 49 U.S.C. 5307(c)(1)(H), it will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
 9. As required by 49 U.S.C. 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation,
 10. Each fiscal year:
 - a. It will assure that at least one (1) percent of the amount of the 49 U.S.C. 5307 funding apportioned to its urbanized area must be expended for public transportation security Projects as described in 49 U.S.C. 5307(c)(1)(J)(i) including:
 - (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Providing emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other Project intended to increase the security and safety of an existing or planned public transportation system, or
 - b. The Designated Recipients in its urbanized area certify that such expenditures for transportation security Projects are not necessary (Information about the intentions of your Designated Recipients in your Applicant's urbanized area must be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when it submits its Urbanized Area Formula Grants Program application in TEAM-Web),
 11. If it serves an urbanized area with a population of at least 200,000 individuals, as determined by the Bureau of the Census:
 - a. Each fiscal year, it will ensure that at least one (1) percent of the amount apportioned to its urbanized area is spent for Associated Transit Improvements, as defined in 49 U.S.C. 5302(1),

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- b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
 - (1) A list of its Associated Transit Improvement Projects or Project Activities during that Federal fiscal year using those 49 U.S.C. 5307 funds, or
 - (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the funding apportioned to the area for Associated Transit Improvement Projects or Project Activities, or have included the same information in a separate report attached in TEAM-Web, and
 - c. The report of its Associated Transit Improvement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and
12. It will comply with the final Federal regulations, when issued, that implement the safety requirements of 49 U.S.C. 5329(d).

B. Urbanized Area Formula Grants Program before MAP-21 Became Effective.

You must select the Certification in Group 15.B if your Applicant seeks funding under the Urbanized Area Formula Grants Program financed with funds appropriated or made available for former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year. In administering this program, MAP-21 cross-cutting requirements supersede inconsistent former requirements.

The following Certifications for the Urbanized Area Formula Grants Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply instead; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any elderly individual,
 - b. Any handicapped individual, as described in 49 CFR part 27,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and

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- d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, it will comply with the following provisions as amended by MAP-21:
 - a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - c. “Buy America” under 49 U.S.C. 5323(j),
 - d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - f. “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
 - a. Has or will make available to the public information on amounts available to it under 49 U.S.C. 5307 and the Program of Projects it proposes to undertake,
 - b. Will develop or has developed, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be financed,
 - c. Will publish or has published a proposed Program of Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the Applicant or Recipient’s performance,
 - d. Will provide or has provided an opportunity for a public hearing in which to obtain the views of citizens on the proposed Program of Projects,
 - e. Will ensure or has ensured that the proposed Program of Projects provides for the coordination of public transportation services assisted under 49 U.S.C. 5336 with transportation services assisted from other Federal Government sources,
 - f. Will consider or has considered comments and views received, especially those of private transportation providers, in preparing the final Program of Projects, and
 - g. Will make or has made the final Program of Projects available to the public,
8. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
9. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
10. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation,
11. Each fiscal year:
 - a. It will assure that at least one (1) percent of the 49 U.S.C. 5307 funding apportioned to its urbanized area must be spent for public transportation security

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Projects (limited to capital Projects if it serves an urbanized area with a population of 200,000 or more), including:

- (1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
 - (2) Increased camera surveillance of an area in or adjacent to that system,
 - (3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
 - (4) Any other Project intended to increase the security and safety of an existing or planned public transportation, or
- b. It will certify that such expenditures for transportation security Projects are not necessary (Information about its intentions must be recorded in the “Security” tab page of the TEAM-Web “Project Information” window when it submits its Urbanized Area Formula Grants Program application in TEAM-Web),
12. If it serves an urbanized area with a population of at least 200,000 individuals:
- a. Each fiscal year, it will ensure that at least one (1) percent of the amount apportioned to its urbanized area is spent for Transit Enhancements, as defined in former 49 U.S.C. 5302(a)(15),
 - b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
 - (1) A list of its Transit Enhancement Project Activities during that Federal fiscal year using those former 49 U.S.C. 5307 funds, or
 - (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the amount of funding that must be made available to them for Transit Enhancements or have included the same information in a separate report attached in TEAM-Web, and
 - c. The report of its or the Designated Recipients’ Transit Enhancement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and
13. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

C. Passenger Ferry Grant Program.

If your Applicant seeks FTA funding for its Project under the Passenger Ferry Grant Program, 49 U.S.C. 5307(h), the Certifications in Group 15.C apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications for the Passenger Ferry Grant Program funding are required by 49 U.S.C. 5307(h) and (c)(1); therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,

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- b. Financial capacity, and
- c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a Project financed under 49 U.S.C. 5307(h), the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C. 5307(h), it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. As required by 49 U.S.C. 5307(d), it:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
7. As required by 49 U.S.C. 5307(c)(1)(H), it will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
8. As required by 49 U.S.C. 5307(c)(1)(I), it has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
9. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

D. Job Access and Reverse Commute (JARC) Formula Grant Program.

If your Applicant seeks FTA funding for its Project under the Job Access and Reverse Commute (JARC) Formula Grant Program, former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 15.D apply to your Applicant, except as FTA determines otherwise in writing.

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1. The following Certifications for the Job Access and Reverse Commute (JARC) Formula Grant Program are required by former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will make awards of JARC funding on a competitive basis following:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(A), and
 - (2) A statewide solicitation for applications for JARC funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(B) or (C),
 - b. Any allocations to Subrecipients of JARC funding authorized by former 49 U.S.C. 5316 will be distributed on a fair and equitable basis,
 - c. As required by former 49 U.S.C. 5316:
 - (1) The Projects it has selected or will select for former 49 U.S.C. 5316 funding must be derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated, and
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Human service providers, and
 - (c) Participation by the public,
 - d. Before it transfers funds to a Project funded by former 49 U.S.C. 5336, that Project has been or will have been coordinated with private nonprofit providers of services as required under former 49 U.S.C. 5316(g)(2),
 - e. Before using funds apportioned for Projects serving an area other than that for which funding was apportioned under former 49 U.S.C. 5316:
 - (1) The State's chief executive officer, or his or her designee, will have certified that all the JARC program objectives of former 49 U.S.C. 5316 are being met in the area from which the funding would be derived, and
 - (2) If the State has a statewide program for meeting the JARC program objectives of former 49 U.S.C. 5316, the funds can be used for Projects anywhere in the State, and
 - f. The requirements of former 49 U.S.C. 5307 will apply to the JARC Program, authorized by former 49 U.S.C. 5316, and
2. The following Certifications for the JARC Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:

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- a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) The legal capacity,
 - (2) The financial capacity, and
 - (3) The technical capacity,
- b. It has or will have, and will require each Subrecipient to have satisfactory continuing control over the use of Project equipment and facilities,
- c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
- d. To the extent applicable, it will ensure, and will require each Subrecipient to ensure, that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5316 the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any elderly individual,
 - (2) Any handicapped individual, as described in 49 CFR part 27,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- e. When carrying out a procurement under former 49 U.S.C. 5316, it will comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m), and
 - (5) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
- f. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- g. It:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5316,
 - (2) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds when needed,
- h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
- i. It has or will have, and will require each Subrecipient to have, a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and

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- j. To the extent applicable, it will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 16. SENIORS/ELDERLY/INDIVIDUALS WITH DISABILITIES/ NEW FREEDOM PROGRAMS.

The Certifications in Group 16 are required for funding under:

- 16.A. *The Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, financed or to be financed with funds appropriated or made available for 49 U.S.C. 5310, as amended by MAP-21, which among other things authorizes funding for New Freedom Projects and Project Activities,*
- 16.B. *The Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, and*
- 16.C. *The New Freedom Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant's Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 16, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 16 that does not apply will not be enforced.

16.A. Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, 49 U.S.C. 5310, as amended by MAP-21, the Certifications in Group 16.A apply to your Applicant, except as FTA determines otherwise in writing.

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1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. 5310; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. Each of its Subrecipients is:
 - (1) A private nonprofit organization, or
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program,
 - b. It will comply with the following Project selection and planning requirements:
 - (1) The Projects it has selected or will select for funding appropriated or made available for 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public,
 - (3) The transportation Projects to assist in providing transportation services for seniors and individuals with disabilities are included in a Program of Projects,
 - (4) A Program of Projects in the preceding subsection 1.b(3) of this Group 16.A Certification is or will be submitted annually to FTA, and
 - (5) To the maximum extent feasible, the services funded by 49 U.S.C. 5310 will be coordinated with transportation services funded by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services,
 - c. As required by 49 U.S.C. 5310(e)(2)(B), it certifies that if it allocates funds received under 49 U.S.C. 5310, to Subrecipients, it will have allocated those funds on a fair and equitable basis,
 - d. It will transfer a facility or equipment financed with funding appropriated or made available for a grant under 49 U.S.C. 5310, to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, only if:

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- (1) The recipient possessing the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. 5310,
 - e. As required by 49 U.S.C. 5310(b)(2), it will use at least fifty-five (55) percent of the funds on capital Projects to meet the special needs of seniors and disabled, and
 - f. The requirements of 49 U.S.C. 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, authorized by 49 U.S.C. 5310, and
2. FTA has determined certain requirements of 49 U.S.C. 5307, to be appropriate for which some require Certifications; therefore, as specified under 49 U.S.C. 5307(c)(1), it certifies that:
- a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain, and will require each Subrecipient to maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will, and will require each Subrecipient to comply with the:
 - (1) General Provisions of 49 U.S.C. 5323, and
 - (2) Third Party Contract Provisions of 49 U.S.C. 5325,
 - e. It has complied or will comply with, and will require each Subrecipient to comply with:
 - (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304, and
 - f. To the extent applicable, it will comply with, and require its Subrecipients to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

16.B. Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program, former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, the Certifications in Group 16.B apply to

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your Applicant, except as FTA determines otherwise in writing.

1. The following Certifications for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:
 - a. Each of your State Applicant's Subrecipients is:
 - (1) A private nonprofit organization, if the public transportation service that would undertake public transportation capital Project(s) planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities is:
 - (a) Unavailable, (b) Insufficient, or (c) Inappropriate, or
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are not any nonprofit organizations readily available in the area to provide public transportation capital Projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities,
 - b. The Projects your State Applicant has selected or will select for funding appropriated or made available for former 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
 - (1) Locally developed, and
 - (2) Coordinated,
 - c. That public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (1) Elderly individuals,
 - (2) Individuals with disabilities,
 - (3) Representatives of public, private, and nonprofit transportation providers,
 - (4) Representatives of human services providers, and
 - (5) Other members of the public,
 - d. If your State Applicant allocates funds received under former 49 U.S.C. 5310 to Subrecipients, your State Applicant will have allocated those funds on a fair and equitable basis,
 - e. The Program of Projects your State Applicant has submitted or will submit contains or will contain an assurance that the Program provides for the maximum feasible coordination of transportation services funded by former 49 U.S.C. 5310 with transportation services funded by other Government sources,
 - f. If your State Applicant transfers former 49 U.S.C. 5310 funds to another Project funded under 49 U.S.C. 5336 in accordance with former 49 U.S.C. 5310(b)(2),

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- the Project for which the funds are requested has been coordinated with private nonprofit providers of service under former 49 U.S.C. 5310, and
- g. It will comply with the requirements of former 49 U.S.C. 5307 that FTA determined will apply to the former Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program,
2. The following Certifications for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5307(d)(1); therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:
 - a. Your State Applicant and each of its Subrecipients have or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. Your State Applicant and each Subrecipient has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. Your State Applicant and each of its Subrecipients will maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5310, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
 - e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
 - f. Your State Applicant:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have, the amount of funds required for the local share by former 49 U.S.C. 5310(c)(2),
 - (2) Will provide, and as necessary will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary, will require each Subrecipient to provide, the local share funds when needed,
 - g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and
 - h. To the extent applicable, your State Applicant will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

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16.C. New Freedom Program.

If your Applicant seeks FTA funding for its Project under the New Freedom Program, former 49 U.S.C. 5317, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, the Certifications in Group 16.C apply to your Applicant, except as FTA determines otherwise in writing.

1. Former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year requires the following Certification for the New Freedom Program; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will make awards of New Freedom funding on a competitive basis after conducting:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5317(d)(1), or
 - (2) A statewide solicitation for applications for New Freedom funding in compliance with former 49 U.S.C. 5317(d)(2),
 - b. Any allocations to Subrecipients of New Freedom funding authorized by former 49 U.S.C. 5317 will be distributed on a fair and equitable basis,
 - c. It will comply with the following Project selection and planning requirements:
 - (1) The Projects it has selected or will select for funding appropriated or made available for that program were derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Representatives of public, private, and nonprofit human services providers, and
 - (c) Participation by the public,
 - d. Before it transfers funds to a Project funded by former 49 U.S.C. 5311(c), former 49 U.S.C. 5336, or both:
 - (1) The funding to be transferred may be made available only to Projects eligible for funding appropriated or made available for former 49 U.S.C. 5317, and
 - (2) It will have consulted with responsible local officials and publicly owned operators of public transportation in each area for which the amount to be transferred was originally awarded, and
 - e. The requirements of former 49 U.S.C. 5307 and 5310, as determined by FTA, will apply to the New Freedom Program, authorized by former 49 U.S.C. 5317, and
2. The following Certifications for the New Freedom Program are required by former 49 U.S.C. 5307(d)(1) and 5310; therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:

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- a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
- b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
- c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
- d. When carrying out a procurement under former 49 U.S.C. 5317, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
- e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- f. It:
 - (1) Has or will have, and as necessary, will require each Subrecipient to have the amount of funds required for the local share required by former 49 U.S.C. 5317(g),
 - (2) Will provide, and as necessary will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide, and as necessary will require each Subrecipient to provide, the local share funds when needed,
- g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and
- h. To the extent applicable, it will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 17. RURAL/OTHER THAN URBANIZED AREAS/APPALACHIAN DEVELOPMENT/OVER-THE-ROAD BUS ACCESSIBILITY PROGRAMS.

The Certifications in Group 17 are required for funding under:

- 17.A. *The Formula Grants for Rural Areas Program financed with funding appropriated or made available for 49 U.S.C. 5311(b), as amended by MAP-21, (separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a Public Transportation on Indian*

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Reservations Project financed with funding made available for 49 U.S.C. 5311(c)(1), as amended by MAP-21),

- 17.B. The Formula Grants for Other Than Urbanized Areas Program financed with funding appropriated or made available for former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, (separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a “Tribal Transit” Project financed with funding made available for former 49 U.S.C. 5311(c)(1) in effect in FY 2012 or a previous fiscal year),*
- 17.C. The Appalachian Development Public Transportation Assistance Program financed with funding appropriated or made available for 49 U.S.C. 5311(c)(2), as amended by MAP-21, and*
- 17.D. The Over-the-Road Bus Accessibility Program financed with funding appropriated or made available for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant’s Project under any of the Programs listed above, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 17, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 17 that does not apply will not be enforced.

17.A. Formula Grants for Rural Areas Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for Rural Areas Program, 49 U.S.C. 5311, as amended by MAP-21, the Certifications in Group 17.A apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each State or State organization serving as your Applicant for funding appropriated or made available for the Rural Areas Formula Project authorized by 49 U.S.C. 5311(b). On its behalf, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):

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- a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 3. Its Project equipment and facilities will be adequately maintained,
 4. Its State program has provided for a fair distribution of Federal funding appropriated or made available for 49 U.S.C. 5311(b) within the State, including Indian reservations,
 5. Its program provides or will provide the maximum feasible coordination of public transportation service funded by 49 U.S.C. 5311(b) with transportation service funded by other Federal sources,
 6. Its Projects in its Formula Grants for Rural Areas Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
 7. It:
 - a. Has or will have the amount of funds required for the local share, as required by 49 U.S.C. 5311(g),
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
 8. It may transfer a facility or equipment acquired using a grant under 49 U.S.C. 5311(b) to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. 5311, and
 9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its 49 U.S.C. 5311 funding available that fiscal year to develop and support intercity bus transportation within the State, with eligible activities, including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
 - b. It will provide to FTA a Certification from the Governor of the State that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
 - (2) The State's intercity bus service needs are being met adequately.

17.B. Formula Grants for Other Than Urbanized Areas Program.

If your Applicant seeks FTA funding for its Project under the Formula Grants for Other

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Than Urbanized Areas Program, former 49 U.S.C. 5311 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 17.B apply to your Applicant, except as FTA determines otherwise in writing.

The following Certifications apply to each State or State organization serving as your Applicant for funding appropriated or made available for the Formula Grants for Other Than Urbanized Areas Project authorized by former 49 U.S.C. 5311(b)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. On its behalf, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its State program required under former 49 U.S.C. 5311(b)(2) has provided for a fair distribution of Federal funding appropriated or made available for former 49 U.S.C. 5311(b) within the State, including Indian reservations,
5. Its State program required under former 49 U.S.C. 5311(b)(2) provides or will provide the maximum feasible coordination of public transportation service funded by former 49 U.S.C. 5311(b) with transportation service funded by other Federal sources,
6. Its Projects in its Formula Grants for Other than Urbanized Areas Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. It:
 - a. Has or will have the amount of funds required for the local share, as required by former 49 U.S.C. 5311(g),
 - b. Will provide the local share funds sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It may transfer a facility or equipment acquired using a grant under former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The Recipient possessing the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under former 49 U.S.C. 5311, and
9. Each fiscal year:
 - a. It will spend at least fifteen (15) percent of its former 49 U.S.C. 5311 funding available for that fiscal year to develop and support intercity bus transportation within the State with eligible activities, including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus shelters,

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- (3) Joint-use stops and depots,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
- b. It will provide to FTA a Certification from the Chief Executive Officer of the State that:
- (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
 - (2) The State's intercity bus service needs are being met adequately.

17.C. Appalachian Development Public Transportation Assistance Program.

If your Applicant seeks FTA funding for its Project under the Appalachian Development Public Transportation Assistance Program, 49 U.S.C. 5311(c)(2), the Certification in Group 17.C applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure that, in addition to other Certifications and Assurances it must provide, if it is unable to use its funding made available or appropriated for public transportation operating assistance, in accordance with 49 U.S.C. 5311(c)(2)(D), it may use the funding for a highway Project only after:

1. It provides notice and an opportunity for comment and appeal to affected public transportation providers,
2. It approves for such use in writing, and
3. In approving the use, it determines that local transit needs are being addressed.

17.D. Over-the-Road Bus Accessibility Program.

If your Applicant seeks FTA funding for its Project under the Over-the-Road Bus Accessibility Program, section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, the Assurances in Group 17.D apply to your Applicant, except as FTA determines otherwise in writing.

Your Applicant assures that it will comply with all applicable Federal statutes and regulations, and follow applicable Federal guidance in carrying out any Over-the-Road Bus Accessibility Project supported by the its Grant Agreement with FTA. It acknowledges that it is under a continuing obligation to comply with the terms and conditions of the Grant Agreement with FTA for its Project. It understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the Project.

It assures that the Federal requirements for the Over-the-Road Bus Accessibility Program during FY 2012 will apply to the Project, except as FTA determines otherwise in writing. Certifications and Assurances for funding to be awarded under this program in FY 2015

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are included in these FTA Certifications and Assurances for FY 2015. Each Applicant must submit Group 01 (“Required Certifications and Assurances for Each Applicant”). Each Applicant seeking more than \$100,000 in Federal funding must provide both Group 01, and Group 02, (“Lobbying”).

GROUP 18. TRIBAL TRANSIT PROGRAMS (PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAMS).

The Certifications in Group 18 are required for funding under:

- *The Public Transportation on Indian Reservations Formula Program, 49 U.S.C. 5311(c)(1), as amended by MAP-21, and*
- *The Public Transportation on Indian Reservations Discretionary Program, 49 U.S.C. 5311(c)(1).*

Before FTA may provide funding for your Applicant’s Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 18, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 18 that does not apply will not be enforced.

FTA has established terms and conditions for Tribal Transit Program grants financed with funding appropriated or made available for 49 U.S.C. 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its Project will achieve maximum feasible coordination with transportation service funded by other Federal sources,
5. It will:
 - a. Have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State

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- and Local Governments,” 49 CFR part 18, specifically 49 CFR 18.36, or
- b. Inform FTA promptly that its procurement system does not comply with those U.S. DOT regulations,
6. It will comply with Buy America under 49 U.S.C. 5323(j), and
 7. It will comply with the Certifications, Assurances, and Agreements in:
 - a. Group 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Group 05.B (Bus Testing),
 - c. Group 06 (Demand Responsive Service),
 - d. Group 07 (Intelligent Transportation Systems), and
 - e. Group 10 (Alcohol and Controlled Substances Testing).

GROUP 19. LOW OR NO EMISSION/CLEAN FUELS GRANT PROGRAMS

The Certifications in Group 19 are required for funding under:

- 19.A. *The Low or No Emission Vehicle Deployment Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, and*
- 19.B. *The Clean Fuels Grant Program, former 49 U.S.C. 5308, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide funding for your Applicant’s Project under either Program listed above, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 19, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 19 that does not apply will not be enforced.

19.A. Low or No Emission Vehicle Deployment.

If your Applicant seeks FTA funding for its Project under the Low or No Emission Vehicle Development Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, the Certifications and Assurances in Group 19.A apply to your Applicant, except as FTA determines otherwise in writing.

Section 5312(d)(5)(C)(i) of title 49, United States Code requires the following Certifications for Low or No Emission Vehicle Deployment Program funding

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appropriated or made available for MAP-21; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours, for transportation using or involving a facility or equipment funded for its Project, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability) and cannot use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under this Program, it will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has:
 - a. Informed or will inform the public of the amounts of its funding available under this Program,
 - b. Developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. Provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Assured or will assure that the proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. 5336 with federally-funded transportation services supported by other Federal Government sources,
 - f. Considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and

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- g. Made or will make the final list of Projects available to the public,
7. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

19.B. Clean Fuels Grant Program.

If your Applicant seeks FTA funding for its Project under the Clean Fuels Grant Program, former 49 U.S.C. 5308, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 crosscutting requirements that apply, the Certifications and Assurances in Group 19.B apply to your Applicant, except as FTA determines otherwise in writing.

Former 49 U.S.C. 5307(d)(1), except as superseded by MAP-21 cross-cutting requirements that apply, requires the following Certifications for Clean Fuels Grant Program funding appropriated or made available for former 49 U.S.C. 5308 in effect in FY 2012 or a previous fiscal year; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain the Project equipment and facilities adequately,
4. It will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving Project facilities or equipment supported under former 49 U.S.C. 5308:
 - a. Elderly individuals,
 - b. Individuals with disabilities,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),

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5. When carrying out a procurement under former 49 U.S.C. 5308, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - c. “Buy America” under 49 U.S.C. 5323(j),
 - d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - f. “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304,
9. It has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d).

GROUP 20. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

Before FTA may provide funding for your Applicant’s Project under the Paul S. Sarbanes Transit in Parks Program, former 49 U.S.C. 5320, in effect in FY 2012 or a previous fiscal year for your Applicant’s Project, except as superseded by MAP-21 requirements that apply, in addition to other Certifications and Assurances you must select on your Applicant’s behalf, you must also select the Certifications in Group 20, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 20 that does not apply will not be enforced.

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1. The following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. 5320 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply; therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
 - a. It will consult with the appropriate Federal land management agency during the planning process, and
 - b. The requirements of former 49 U.S.C. 5307, as determined by FTA, will apply to the Parks Program, authorized by former 49 U.S.C. 5320, and
2. FTA has determined certain requirements of former 49 U.S.C. 5307 to be appropriate for the Parks Program, of which some require Certifications; therefore, as specified under former 49 U.S.C. 5307(d)(1), except as superseded by MAP-21 cross-cutting requirements that apply, you certify that:
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain the Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5320, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - (3) “Buy America” under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) “Veterans Preference/Employment” under 49 U.S.C. 5325(k),
 - e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
 - f. It has complied or will comply with the requirements of former 49 U.S.C. 5307(c), and specifically, it:
 - (1) Has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. 5320, and the Projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, Projects to be financed,
 - (3) Has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,

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- (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
 - (5) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - (6) Has made or will make the final list of Projects available to the public,
- g. It:
- (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304, and
- i. It has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

GROUP 21. STATE SAFETY OVERSIGHT GRANT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the State Safety Oversight Grant Program, 49 U.S.C. 5329(e), as amended by MAP-21, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 21, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications in Group 21 that does not apply will not be enforced.

On behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. When carrying out a procurement for its Project, it will comply with the:

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- a. Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, 49 CFR part 18,
 - b. General Provisions of 49 U.S.C. 5323, and
 - c. Third Party Contract Requirements of 49 U.S.C. 5325,
5. As required by 49 U.S.C. 5329(e)(6)(C), it:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds only from sources approved by FTA, and will not be met by:
 - (1) Any Federal funds,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the local share funds when needed,
6. It meets the applicable requirements of 49 CFR part 659, Rail Fixed Guideway Systems: State Safety Oversight, and
7. It has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. 5329(e) and is adequate to promote the purposes of 49 U.S.C. 5329.

GROUP 22. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Public Transportation Emergency Relief Program, 49 U.S.C. 5324, as amended by MAP-21, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Assurance in Group 22, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Assurance in Group 22 that does not apply will not be enforced.

As required by 49 U.S.C. 5324(d), on behalf of your Applicant, you assure that it will comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for funding appropriated or made available for the Public Transportation Emergency Relief Program.

GROUP 23. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

Before FTA may provide funding for your Applicant's Project under the Expedited

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Project Delivery Pilot Program, section 20008(b)(5)(D) of MAP-21, in addition to any other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certification in Group 23, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

To the extent that the Certification in Group 23 does not apply, it will not be enforced.

On behalf of your Applicant, you certify that its existing public transportation system or the public transportation system that is the subject of the Project is in a state of good repair, as required by section 20008(b)(5)(D) of MAP-21.

GROUP 24. INFRASTRUCTURE FINANCE PROGRAMS.

The Certifications in Group 24 apply to the following programs:

- 24.A. The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program, 23 U.S.C. 601-609, except as superseded by MAP-21 cross-cutting requirements that apply, and*
- 24.B. The State Infrastructure Banks (SIB) Program, 23 U.S.C. 610, except as superseded by MAP-21 cross-cutting requirements that apply.*

Before FTA may provide credit assistance under TIFIA for your Applicant's Project or funding for your Applicant to deposit in a SIB, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Certifications in Group 24, except as FTA may determine otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or any other Third Party Participant in its Project, except as FTA determines otherwise in writing. For this reason, we strongly encourage your Applicant to take appropriate measures, including, but not limited to, obtaining sufficient documentation from each Subrecipient and any other Third Party Participant to assure the validity of the applicable Certifications and Assurances selected on behalf of your Applicant.

Any provision of the Certifications and Assurances in Group 24 that does not apply will not be enforced.

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24.A. Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

If your Applicant seeks FTA funding for its Project under the TIFIA Program, the Certifications and Assurances in Group 24.A applies to your Applicant, except as FTA determines otherwise in writing.

On behalf of your Applicant, you certify and assure, as required by 49 U.S.C. 5323(o), that Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA credit assistance under 23 U.S.C. 601 – 609.

1. To comply with 49 U.S.C. 5307, specifically 49 U.S.C. 5307(d)(1), on its behalf, you certify that:
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain its Project equipment and facilities adequately,
 - d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a TIFIA-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
 - e. When carrying out a TIFIA-funded procurement, it will comply with:
 - (1) 49 U.S.C. 5323, and
 - (2) 49 U.S.C. 5325,
 - f. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - (1) Has made or will make available to the public information on amounts of its TIFIA funding request(s),
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,

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- (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - (5) Has ensured or will ensure that the proposed Program of Projects provides for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and U.S. DOT under TIFIA with federally-funded transportation services supported by other Federal Government sources,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - (7) Has made or will make the final Program of Projects available to the public,
- g. It:
- (1) Has or will have at least (twenty) 20 percent of the TIFIA net Project costs required for the local share,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. It will comply with:
- (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- i. It has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d),
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest and any other financing costs incurred in connection with its Project that must be in compliance with those requirements unless:
 - a. It is eligible to receive Federal funding for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
 3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*),
 4. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 5321 *et seq.*, and will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Project prior to obligation of funds, and
 5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d), when required.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

24.B. State Infrastructure Banks (SIB) Program.

If your Applicant is a State and seeks FTA funding under the SIB Program to deposit in its SIB, the Certifications and Assurances in Group 24.B applies to your State and its Project, except as FTA determines otherwise in writing.

On behalf of the State organization serving as your Applicant for funding for its SIB Program, you certify and assure that:

1. It will comply with the following applicable Federal laws establishing the various SIB programs since 1995:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or
 - d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181,
2. It will comply with or follow the Cooperative Agreement establishing the State's SIB program between:
 - a. It and FHWA, FRA, and FTA, or
 - b. It and FHWA and FTA,
3. It will comply with or follow the Grant Agreement that provides FTA funding for the SIB and is between it and FTA, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The Cooperative Agreement establishing the State's SIB Program, or
 - f. The Grant Agreement with FTA,
4. As required by 49 U.S.C. 5323(o), Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, as amended by MAP-21, apply to any Project under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. 610 (or any support from 23 U.S.C. 601 – 609),
5. As required by 49 U.S.C. 5323(o) and 49 U.S.C. 5307(d)(1):
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. It will maintain its Project equipment and facilities adequately,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a SIB-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
 - (3) An individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
 - (4) An individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- e. When carrying out a procurement under a SIB-financed Project, it will comply with the:
 - (1) General Provisions of 49 U.S.C. 5323, and
 - (2) Third Party Contract Provisions of 49 U.S.C. 5325,
- f. It has complied with or will comply with 49 U.S.C. 5307(b) because it:
 - (1) Has made or will make available to the public information on amounts of its funding requested under the SIB program,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - (5) Has ensured or will ensure that the proposed Program of Projects provide for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and the SIB Program with federally-funded transportation services supported by other Federal Government sources,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - (7) Has made or will make the final Program of Projects available to the public,
- g. It:
 - (1) Has or will have the amount of funds required for the local share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

- h. It will comply with the:
 - (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- i. It has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. 5329(d),
- 2. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest and any other financing costs incurred in connection with its Project unless:
 - a. It is eligible to receive Federal funding for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require, and
- 3. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d).

Selection and Signature Page(s) follow.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS (Signature pages alternative to providing Certifications and Assurances in TEAM-Web)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Groups 01 – 24. _____

OR

The Applicant agrees to comply with applicable provisions of the Groups it has selected:

<u>Group</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	
02.	Lobbying.	
03.	Procurement and Procurement Systems.	
04.	Private Sector Protections.	
05.	Rolling Stock Reviews and Bus Testing.	
06.	Demand Responsive Service.	
07.	Intelligent Transportation Systems.	
08.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	
09.	Transit Asset Management Plan and Public Transportation Agency Safety Plan.	
10.	Alcohol and Controlled Substances Testing.	_____
11.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity) and Capital Investment Program in Effect before MAP-21 Became Effective.	_____
12.	State of Good Repair Program.	_____
13.	Fixed Guideway Modernization Grant Program.	_____
14.	Bus and Bus Facilities Formula Grants Program and Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary).	_____
15.	Urbanized Area Formula Grants Programs/ Passenger Ferry Grants Program/Job Access and Reverse Commute (JARC) Formula Grant Program.	_____
16.	Seniors/Elderly/Individuals with Disabilities Programs/New Freedom Program.	_____
17.	Rural/Other Than Urbanized Areas/Appalachian Development/Over-the-Road Bus Accessibility Programs.	_____
18.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	_____
19.	Low or No Emission/Clean Fuels Grant Programs.	_____
20.	Paul S. Sarbanes Transit in Parks Program.	_____
21.	State Safety Oversight Grant Program.	_____
22.	Public Transportation Emergency Relief Program.	_____
23.	Expedited Project Delivery Pilot Program.	_____
24.	Infrastructure Finance Programs.	_____

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2015 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE (Required of all Applicants for FTA funding and all FTA Grantees with an active Capital or Formula Project)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

Name and Relationship of the Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all Federal statutes and regulations, and follow applicable Federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2015, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Project for which it seeks now, or may later seek FTA funding during Federal Fiscal Year 2015.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under State, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA Project or Projects.

Signature _____ Date: _____

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES

Name _____
Attorney for Applicant

Each Applicant for FTA funding and each FTA Grantee with an active Capital or Formula Project must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.

FTA FISCAL YEAR 2015 CERTIFICATIONS AND ASSURANCES
CERTIFICATION REGARDING LOBBYING

The undersigned, _____
certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

The Contractor, _____,
certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. 3801, et seq., apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date