

RTD – DRCOG - Surface Transportation Block Grant Central Corridor Vision and Alternatives Analysis

FAIN: 1136-2026-1

CFDA: 20-500

Award Date: October 15, 2025

Subrecipient DUNS: 800412533

INTERGOVERNMENTAL AGREEMENT

by and between

REGIONAL TRANSPORTATION DISTRICT

1660 Blake Street

Denver, Colorado 80202

and

City and County of Denver

1437 Bannock Street

Denver, Colorado 80202

This Intergovernmental Agreement (**IGA**) made between the Regional Transportation District (**RTD**), a political subdivision of the State of Colorado, and the City and County of Denver (**City or Subrecipient** and together, the **Parties**), to provide pass-through of Federal funding for Subrecipients' Central Corridor Vision and Alternatives Analysis for the Welton St. corridor (**Alternatives Analysis**). Capitalized terms not defined in this IGA shall have the definitions found in the most current Federal Transit Administration (FTA) Master Agreement (**FTA Master Agreement**).

RECITALS

WHEREAS:

- A. The context for this IGA is established in a Denver Regional Council of Governments (DRCOG) Transportation Improvement Program (TIP) grant allocated as the FasTracks Second Commitment in Principle program. The funding source is through the Federal Highway Administration (FHWA) Surface Transportation Block Grant (STBG) program.
- B. The City applied for funding from DRCOG TIP funds and was awarded funding by the DRCOG Board of Directors on October 15, 2025. The awarded funds will be "flexed" from FHWA to FTA as Section 5307 funds. RTD is a Direct Recipient of Section 5307 funds from the FTA and may pass through subgrants of those Section 5307 funds to eligible subrecipients. The City's Alternatives Analysis Plan is an eligible Section 5307 project. Funding is programmed for federal fiscal year 2026.
- C. As the Direct Recipient for USDOT funds, RTD is responsible for submitting a grant application to the FTA, contracting with eligible Subrecipient projects selected by FTA to receive funds through competitive selection processes, and ensuring that subrecipients comply with FTA requirements

as a condition for receipt of DOT funds through oversight and monitoring of subrecipients. The City qualifies as an eligible Subrecipient.

- D. RTD and the City therefore desire to enter into this IGA to allow RTD to pass through Section 5307 funding to the City as a Subrecipient, and for the City to use such funding in full and complete compliance with all federal requirements and the provisions of this IGA, and with full, timely and accurate accounting and reporting by the City of such use.

SUBAWARD AGREEMENT

NOW, THEREFORE, it is hereby agreed as follows:

1. RECITALS/EXHIBITS.

The Recitals set forth above and all exhibits attached hereto are incorporated herein by this reference.

Exhibit A	Scope of Work
Exhibit B	Federal Transit Administration (FTA) Required Provisions
Exhibit C	Federal Certifications
Exhibit C-1	Federal Certification Regarding Lobbying
Exhibit C-2	Organizational Conflicts of Interest Disclosure Requirements and Certification
Exhibit C-3	Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
Exhibit C-4	Contractor’s Covenant Against Contingent Fees
Exhibit D	Template Progress Report

2. DEFINITIONS.

- a. **Alternatives Analysis** means the Central Corridor Vision and Alternatives Analysis, consistent with the description in **Exhibit A**.
- b. **Procurement Documents** means the final written request for proposals or qualifications prepared and issued by the City, together with and including all exhibits, certifications, documents, technical specifications, technical requirements, instructions, terms, procedures, commitments, reference documents, and related requirements.
- c. **RTD Award** means the federal grant received by RTD to be passed through to the City for purposes of funding the Alternatives Analysis.
- d. **Subaward** means an award provided by a Direct Recipient to a Subrecipient for the Subrecipient to carry out part of a federal award received by the Direct Recipient.
- e. **Subrecipient** means an entity that receives a Subaward (or Sub-agreement) from a Direct Recipient to carry out part of a federal program but does not include an individual that is a beneficiary of such program or a Third Party Contractor or Third Party Subcontractor. A

Subrecipient may also be a Direct Recipient of other federal awards directly from a federal awarding agency.

- f. **Third Party Contract** means a legal instrument by which RTD or the City purchases property or services needed to carry out this IGA using the RTD award.
- g. **Third Party Contractor** mean an entity that is a party to a Third Party Contract.
- h. **Third Party Participant** means each participant in the preparation and development of Alternatives Analysis, except for FTA and RTD, whose work in connection with the Alternatives Analysis is supported with FTA funding, eligible non-federal share dedicated to the Alternatives Analysis, or is dedicated as an in-kind contribution eligible for non-federal share. A Third Party Participant may be a Subrecipient or Third Party Contractor.

3. **SUBRECIPIENT STATUS.**

- a. **Acknowledgement of Status.** The City acknowledges and expressly agrees that it must comply with all applicable Federal laws, regulations and requirements as set forth in this IGA, the FTA Master Agreement, and with any subsequent modification or amendments to applicable Federal laws, regulations and requirements as more fully set forth in Section 10 herein. Any violation of a Federal requirement by the City may result in an enforcement action, termination of this IGA, disallowance of funding or other appropriate measures.

4. **Alternatives Analysis.**

- a. **General.** The City shall use the Federal funds to undertake and complete the work described in the scope of work for the Alternatives Analysis attached hereto as **Exhibit A (Scope of Work)**. The funds to be provided under this IGA shall only be used by the City for the completion of the Alternatives Analysis as described in Exhibit A. No changes to the Scope of Work shall be made without prior written agreement between the Parties with approval from DRCOG and, if required, the FTA.
- b. **Description of Alternatives Analysis.** The Alternatives Analysis Scope of Work shall include a description of the Alternatives Analysis's location, a detailed project description, a specific description of the Alternatives Analysis's Plan's budget (line items), an independent cost estimate (**ICE**) and a schedule.

5. **FUNDING.**

- a. Federal funding for the development of the Alternatives Analysis shall be provided under the FTA's Section 5307 grant program administered by RTD. The City shall use the funds solely for eligible purposes defined under the Section 5307 grant program, as they may be amended, promulgated or updated from time to time during the term of this IGA.

- b. Grant Amount. The TIP Grant 1136-2026-1 will fund eligible costs for the development and implementation of the Alternatives Analysis. The grant award will be Seven Hundred Seventy-One Thousand Two Hundred Dollars (**\$771,200.00**) (the “**Alternatives Analysis Grant Amount**”). The Alternatives Analysis Grant Amount represents the total amount of federal funding provided under this IGA to fully fund the Alternatives Analysis. The City is responsible for providing all remaining funds above the Grant Amount necessary to fund the Alternatives Analysis.
- c. Notice to Proceed/Completion. The City may commence work on the Plan upon receipt of a notice to proceed (**NTP**) from RTD. All Alternatives Analysis work must be completed within three (3) years from the date of the NTP unless approved in writing in advance by RTD.
- d. Overruns. In no event shall RTD be responsible for reimbursement of funds for the Alternatives Analysis in any amount greater than the federally funded portion of the grant amount. If the amount of grant funds received by RTD is less than the Alternatives Analysis Grant Amount, respectively, or the cost of the Alternatives Analysis exceeds the grant amounts, the City may, at its discretion:
 - (i) pay additional funds;
 - (ii) reduce the scope of work for the development of the Alternatives Analysis with prior written approval from RTD and DRCOG; or
 - (iii) request to terminate the Alternatives Analysis and this IGA as set forth below in Section 9 herein.

e. Alternatives Analysis Funding Summary:

Funding Source	Amount
Federal Share (80%)	\$771,200.00
Local Match (20%)	\$192,800.00
Total Alternatives Analysis Budget	\$964,000.00

- f. Limited Award. This is a one-time award of Federal funds by RTD to the City and does not imply or obligate RTD to any future funding commitment.
- g. No RTD Obligation. RTD is not responsible to provide any funding to substitute for grant funds in the event the grant is withdrawn, disallowed or otherwise not funded.
- h. Administrative Fee. The Parties acknowledge that RTD has elected not to charge an administrative fee to partially recover RTD’s costs of administering the grants.
- i. No Research and Development. The Parties acknowledge that this award does not include research or development.
- j. No Indirect Costs. All costs charged to the Alternatives Analysis shall be identified by the City and the City shall not charge indirect costs for work performed on the Alternatives Analysis.

6. THIRD PARTY PARTICIPANT AGREEMENTS

- a. Flow Down of Provisions to Contractors. City may issue Procurement Documents to engage Third Party Contractors in connection with the preparation and development of the Alternatives Analysis. The City understands, acknowledges and agrees that it is the responsibility of the City to require that each contract with a Third Party Participant shall comply with all applicable federal requirements as described in Section 10(a) of this IGA in order to be eligible for reimbursement of amounts paid under such a contract. The City shall require that the performance of all Third Party Participants and the fulfillment of all Federal requirements by those Third Party Participants which are more fully described in Section 10 herein and guidance provided by FTA Circular 4220.1G, Third Party Contracting Guidance and 49 C.F.R. Part 18.37, which requires Third Party Contracts to include all federally required clauses in their contracts and that Third Party Participants be made aware of the requirements imposed on them by federal statute and regulation, including the requirements imposed by 49 C.F.R. Part 18.

In the event that a Third Party Participant contracts with a subcontractor to perform work under this IGA, the City is responsible for ensuring that any such subcontract shall comply with all the terms of this IGA and all applicable federal statutes and requirements referenced herein. Each subcontract entered into between a Third Party Participant and a subcontractor shall include the following provision or a substantially similar version thereof:

“RTD/Denver Intergovernmental Agreement (IGA) Terms and Conditions Binding on Subcontractors: Subcontractor has received and reviewed a copy of the IGA, including its attached FTA Terms and Conditions and the Federal Certifications and Assurances applicable to the IGA, and finds the terms and conditions stated therein to be acceptable. Subcontractor agrees to be bound to the City of Denver for all those obligations under the IGA as the Contractor is bound to the City of Denver under the IGA. All terms and provisions in the IGA, the FTA Terms and Conditions and the Federal Certifications and Assurances that are applicable to the Subcontractor and the work are incorporated by reference, in their entirety, herein. Should there be a conflict between the IGA and this contract, the terms of the IGA shall control. Subcontractor agrees to cooperate with RTD and the City of Denver in providing any information requested by RTD or City of Denver for grant reporting purposes.”

- b. Procurement Documents. The City shall provide RTD with the draft Procurement Documents and form of the Third Party Contract prior to City publication and RTD shall timely consult with the City regarding any changes necessary to cause the draft Procurement Documents and Third Party Contract to comply with the RTD Award and the terms of this IGA. Compliance review shall consist of inclusion of the required contract clauses for federally assisted subcontracts and Third Party Contracts. Compliance by the City and the Third Party Contractor with FTA Required Provisions for federally assisted projects shall be a condition of RTD Award receipt. Once RTD has reviewed and approved the Procurement Documents and the Third Party Contract for compliance with requirements, the City may publish the Procurement Documents, select the Third Party Contractor, and begin contract negotiations.

- c. Prior to the execution of a Third Party Contract between the City and a Third Party Participant, the Third Party Contractor shall complete and submit all required forms found in **Exhibit C** to the City, and the City shall timely submit those completed forms to RTD. The City and Third Party Contractor shall be the parties to the Third Party Contract; and the City, as the contracting agency, shall have authority for administration of the Third Party Participant's contract. RTD will not directly contact the Third Party Contractor, unless otherwise set forth herein. RTD may require ten (10) business days to review these submittals. Under no circumstance shall a Third Party Participant begin work without an executed Third Party Contract. Work performed without a compliant, executed Third Party Contract, with all completed forms having previously been submitted to RTD, will not be eligible for compensation by RTD Award funds.
- d. Copies to RTD. Upon execution of the Third Party Contract between the City and the Third Party Contractor, the City shall provide a copy of the Third Party Contract to RTD Planning and the RTD Small Business Office (**RTD SBO**). The City shall require that all of its Third Party Contractors provide copies of all subcontracts to RTD SBO.
- e. Review. The City shall manage all work performed by any Third Party Participant for the development of the Alternatives Analysis. RTD shall have the opportunity to review and comment upon all documents, drawings, proposals, exhibits, etc., produced by the Third Party Participant as part of the Alternatives Analysis, including preliminary drafts. RTD may 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 Alternatives Analysis. Any property or information provided by RTD for the Alternatives Analysis remains the property of RTD and shall be returned to RTD upon completion of the development of the Alternatives Analysis. RTD shall be entitled to receive electronic copies of all reports, drawings, data, and other material produced or collected in electronic format by the Third Party Participant at no additional cost to RTD.
- f. Meetings. RTD shall have the right to attend and shall receive notice of all formal meetings with a Third Party Participant no less than forty-eight (48) hours in advance. RTD shall not give direction to a Third Party Participant but shall submit all comments on a Third Party Participant's work to the City.

7. **REPORTING/AUDITS**.

- a. RTD shall be responsible for all grant reporting for the development of the Alternatives Analysis to the FTA. The City shall cooperate with RTD in providing information required by RTD for grant reporting and shall also require its Third Party Participants to provide such cooperation with RTD.
- b. As of the Effective Date, the City shall submit to RTD monthly reports of progress made on the Alternatives Analysis *regardless of whether any work has actually been performed during that month*, consistent with and in reference to the Alternatives Analysis's Scope of Work (**Progress Report**). The monthly Progress Report shall include:
 - A cover sheet to accompany the Progress Report which includes RTD's assigned purchase order number for this Grant;

- A summary of work completed with specific references to the Grant's Scope of Work;
- A summary of issues that may delay or impact the Grant's schedule of deliverables; and
- A revised date of completion of the Alternatives Analysis, if applicable.

A template Progress Report is included as **Exhibit D**.

- c. RTD may withhold reimbursements until all required reporting is submitted. In the event Progress Reports are untimely or incomplete, payments may be delayed and certain amounts may be excluded or disallowed if rendered ineligible as a result. Delinquent or incomplete reporting may be reported to DRCOG.
- d. **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 Third Party Participant(s) performing the work for the Alternatives Analysis, and the contracts awarded for the Alternatives Analysis shall provide that RTD, FHWA and/or FTA shall have the right to audit the Third Party Participants and all of Third Party Participant's subcontractors' books and records as they pertain to the development of the Alternatives Analysis for a period of three (3) years from the date of completion of the Third Party Participant's work on the Alternatives Analysis. The City agrees that grant closeout does not alter the reporting and record retention requirements of this Section.
- e. **Project Closeout**. Completion of the Alternatives Analysis occurs when FTA notifies RTD that FTA has closed the grants. The City agrees that grant closeout by FTA does not invalidate any continuing requirements imposed by this or any other agreement, or any unmet requirements.

8. **INVOICING**.

- a. **Monthly Invoices**. With each monthly Progress Report, if costs or expenses are incurred during that period, the City must submit invoices to RTD for verified, eligible costs and expenses consistent with the Scope of Work up to a maximum amount of the grant amount (if the grant is in the amounts as anticipated; otherwise up to the actual grant amount). **The invoice shall be in a form approved by RTD and include the RTD purchase order number specifically assigned to this IGA.** Such invoices shall only be for verified, eligible expenses consistent with the grant awards. Invoices shall include any Third Party Participant's invoice and other available background information regarding the work being invoiced. RTD shall reimburse the City only for actual Third Party Participant work and other eligible expenses detailed in the Scope of Work. The City agrees to attach to the invoice all receipts and proofs of payments for expenditures and support all costs charged to the Alternatives Analysis, including any Third Party Participant work, with properly executed payroll records, time records, invoices, contracts and other documentation required to demonstrate eligibility.

Submit invoices to:

Regional Transportation District

Attn: Accounts Payable

1660 Blake Street DO-M3

Denver, CO 80202

Or to: AP.Department@RTD-Denver.com

With a copy to: chris.quinn@rtd-denver.com

- b. No Staff Time. Internal City staff time shall not be included as a reimbursable expense as part of the Alternatives Analysis.
 - c. Payment by RTD. 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 Alternatives Analysis funded pursuant to this IGA other than as set forth herein, unless previously authorized in writing. RTD shall not be responsible for paying Third Party Participant 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 and the requirements of its Third Party Participants. In the event any amount paid by RTD under this IGA is later determined to be ineligible for federal funding by RTD or any federal agency, the City shall require the party responsible for the ineligible payments to reimburse RTD the full amount of those funds and any costs, interest or penalties associated with the same.
 - d. **Work performed on the corridor Alternatives Analysis prior to the NTP is not considered eligible work.**
 - e. Expenditure of funds from the grants shall be documented separately by the City and Third Party Participant to ensure dollars spent coincide with task deliverables assignable to each funding source as determined by an independent cost estimate.
 - f. Compliance by the City, Third Party Participant, and any other Alternatives Analysis contractors and subcontractors with grant requirements and other requested changes by RTD shall be a condition of receipt of grant funding through RTD for the development of the Alternatives Analysis.
9. **TERMINATION; SUSPENSION OF WORK**. This IGA may be terminated for any of the following reasons:
- a. Funds not Available. In the event that grant funds required for funding of this IGA are not made available to RTD, this IGA shall terminate unless the City elects to pay local match funds or reduce the Scope of Work for development of the Alternatives Analysis as set forth above. Whether or not grant funds are available, or whether or not the City's local match funds are sufficient to pay for the costs of the Alternatives Analysis, RTD is under no obligation to provide any funds for the Alternatives Analysis other than grant funds actually received by RTD.

- b. Termination for Mutual Convenience. The Parties may terminate this IGA and terminate the development of the Alternatives Analysis if both Parties agree in writing that the continued development of the Alternatives Analysis would not produce beneficial results commensurate with the further expenditure of funds.
 - c. RTD's Right to Terminate Contract for Convenience or Default. RTD shall also have the right to terminate this IGA for convenience or default, and the right to suspend the work, in accordance with provision III.1, Termination, of the FTA contract provisions attached as Exhibit B.
 - d. The City's right to Terminate. The City reserves the right to terminate this IGA for convenience or default, in accordance with provision FTA 8, Termination, of the FTA contract provisions attached as Exhibit B. In the event that the City terminates this IGA pursuant to provision FTA 8, Termination, of the FTA contract provisions attached as Exhibit B, the City shall be required to complete any portion of the work for which RTD has made payment prior to the City providing written notice of termination to RTD. At the time of termination, to the extent that RTD has paid funds to the City in excess of the value of work performed by the City under this IGA, the City shall remit such excess funds to RTD.
 - e. The City agrees to remit to RTD any excess payments made to the City, with respect to any costs disallowed by the FTA after payment was made to the City by RTD, and any amounts recovered by the City from third parties or from other sources pursuant to this IGA, in addition to any penalties and interest assessed.
 - f. In the event that either party exercises any termination rights described in this paragraph, this IGA shall cease to be of any further force and effect as of the date of termination, with the exception of all remedies which are specified herein and may otherwise be available to the Parties under the law, and with the exception of any rights or liabilities of the Parties that may survive by virtue of this IGA.
10. **COMPLIANCE WITH FEDERAL GRANT REQUIREMENTS ("FLOW DOWN OF PROVISIONS")**. As previously stated, the Parties acknowledge that development of the Alternatives Analysis will be fully federally funded. This IGA and all subgrants, third party contracts and subcontracts are therefore subject to the FTA Master Agreement, as updated, and all other applicable federal regulations. All subgrants, Third Party Contracts, and Third Party Subcontracts must include as flow down provisions the terms of this IGA, including the FTA contract provisions attached as **Exhibit B**.
- a. The City shall at all times comply with all applicable FTA regulations, policies, procedures, reporting requirements, and directives as they may be amended, succeeded or promulgated from time to time during the term of this IGA, including without limitation those in FTA Circular 8100.1D and those listed directly or by reference in the current FTA Master Agreement, as they may be amended, succeeded or promulgated from time to time during the term of this IGA. 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 IGA. The City may contact either RTD or FTA for a copy of

the current FTA Master Agreement and certifications. FTA's Master Agreement for FY2025 can also be found at the FTA website: <http://www.transit.dot.gov>.

- b. Without limiting the foregoing, the following are specifically incorporated herein by this reference and shall govern this IGA: (i) FTA Master Agreement; (ii) US DOT Regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" 2 C.F.R. part 1201; (iii) FTA Circular 5010.1E, Grants Management – General; (iv) FTA Circular 4220.1G, "Third Party Contracting Guidance"; (v) Executive Order 12898 (Environmental Justice), and (vi) FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients." Those requirements imposed upon RTD as recipient of an FTA award are hereby imposed upon the City and its Third Party Participants 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 FTA-mandated terms will be deemed to control in the event of a conflict with other provisions contained in this IGA. 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.
- d. The Federal Certifications and Assurances applicable to this IGA are attached and fully incorporated by reference herein as **Exhibit C**. A Certification Regarding Lobbying Form is included within Exhibit C-1; the form is applicable to federal awards exceeding \$100,000 and in such event must be completed by the City and returned to RTD prior to execution of this IGA by RTD. Such certifications, assurances and terms are subject to updating by FTA. The City agrees to comply with any additional FTA-required certifications and assurances during the term of this IGA for the City, and further agrees to require such compliance by any Third Party Participants for awards exceeding \$100,000 prior to entering into such contract. 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 IGA, 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, require the City's Third Party Participants to likewise comply, and shall also require the City's Third Party Participants to extend all such requirements to each contractor, subcontractor, and any other Third Party Participant whose work is funded in whole or in part by RTD Award.
- e. The City is required to adopt and publish its Title VI policy, providing a copy thereof to RTD, which shall include Title VI complaint procedures for investigating and tracking Title VI complaints. Title VI complaints are to be handled in compliance with federal law.

11. **ALTERNATIVES ANALYSIS RECOMMENDATIONS.** The Parties acknowledge this IGA is for the development of the Alternatives Analysis Scope of Work only, as expressly described in **Exhibit A**. 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 recommendations into local ordinances, regulations or requirements governing development of the area. Nothing herein commits either governing body to grant such

approvals, and nothing herein commits either party to fund any improvements identified in the Alternatives Analysis or any other adopted plans.

12. Third Parties. No person or entity not a party to this IGA shall have rights hereunder, except the Federal Government.
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 IGA or the proceeds thereof.
14. Merger. This IGA represents the entire agreement between the Parties and may be amended only in writing, signed by the Parties.
15. Disputes. Disputes shall initially be resolved by the Party Liaisons defined as RTD's Senior Manager, Transit Oriented Communities and City's Director of Planning Services. If the Party Liaisons are unable to resolve the dispute, they shall escalate the dispute to RTD's General Manager and the Mayor of Denver.
16. Notices. All contacts, communications, and data required to be performed or exchanged pursuant to this IGA will be sent to the following persons or their successors designated in writing:

For RTD:

Chris Quinn
Planning Project Manager
Regional Transportation District
1560 Broadway, Suite 700
Denver, Colorado 80202

For City:

David Krutsinger
Transit Director
City and County of Denver
201 W. Colfax, Dept. 205
Denver, CO 80202

17. Term. This IGA shall become effective upon the date of execution by both Parties (**Effective Date**) and will terminate upon termination of the grant, unless sooner terminated as provided in Section 9 or extended in writing by both Parties. Certain provisions shall logically survive termination of this IGA.
18. Indemnification. The City shall require its Third Party Contractor to defend and indemnify, save, and hold harmless RTD, its employees and agents, against any and all claims, damages, liability, penalties, and awards including costs, expenses and attorney fees and related costs, incurred as a result of any negligent or reckless act or omission by Third Party Contractor, or its employees, agents, subcontractors, or assignees arising out of the preparation and development of the Alternatives Analysis.
19. Insurance. The City shall require its Third Party Contractor to include RTD as a named insured on any policies issued in connection with the Alternatives Analysis.
20. Successors and Assignment. The terms of the IGA shall be binding on the successors and assigns of each of the Parties. The City shall not assign this IGA, or any part thereof, without the prior

written consent of RTD, and any assignment without such consent shall be void and unenforceable.

21. Captions. The captions and headings in this IGA are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.
22. Further Cooperation. The Parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of this IGA, and will execute such additional documents as necessary to effectuate the same.
23. No Joint Venture. Nothing contained in this IGA is intended to create a partnership, joint venture or joint enterprise between the Parties, and any implication to the contrary is hereby disavowed. This IGA does not authorize any party hereto to act as an agent of the other party hereto for any purpose.
24. Appropriation. Any payment obligation by the City, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this IGA. The City does not by this IGA irrevocably pledge present cash reserves for payment or performance in future fiscal years, and this IGA does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. All payments under this IGA shall be paid from funds of the City that have been duly appropriated and encumbered for the purposes hereof. The City has no obligation to make payments from other sources to satisfy such payments. The City is not under any obligation to make any future encumbrances or appropriations for this IGA.
25. Applicable Law and Venue. This IGA shall be given effect and construed by application of the law of the State of Colorado, and any action or proceeding arising hereunder shall be brought in the District Court for the City and County of Denver, State of Colorado; provided, that if any such action or proceeding arises under the Constitution, laws or treaties of the United States of America, or if there is a diversity of citizenship between the parties thereto, so that it is to be brought in a United States District Court, it shall be brought in the United States District Court for the District of Colorado, applicable Division or any successor federal court having original jurisdiction.
26. Severability. No determination by any court, governmental or administrative body or agency or otherwise that any provision of this IGA or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall remain valid and enforceable to the fullest extent allowed by and shall be construed wherever possible as being consistent with, applicable law.
27. Authority of the Parties. The Parties represent that each possesses the legal authority to enter into this IGA and that each Party has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this IGA and to bind the Parties to its terms. The person executing this IGA on behalf of the Parties warrant(s) that such person has full authorization to execute this IGA.
28. Execution in Counterparts. This IGA (and each amendment, modification and waiver in respect of this IGA) may be executed and delivered in counterparts (including by facsimile or email

transmission), each of which will be deemed an original, but all of which when taken together shall constitute a single contract. This IGA shall become effective when it shall have been executed by each Party and when each Party shall have received counterparts hereof, which, when taken together, bear the signatures of the other Party hereto, and thereafter shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page to this IGA (including by facsimile or email) shall be effective as delivery of a manually executed counterpart of this IGA.

29. Electronic Signatures and Electronic Records. RTD consents to the use of electronic signatures. The IGA, and any other documents requiring a signature under the IGA, may be signed electronically in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the IGA solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the IGA in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[Signatures on followings pages]

IN WITNESS WHEREOF, the Parties hereto have executed this IGA on the _____ day of _____, 2026.

REGIONAL TRANSPORTATION DISTRICT

CITY of DENVER

Signed by:
By: Debra A. Johnson
Debra A. Johnson
General Manager and CEO

By: **See Attached Signature Page**
Michael C. Johnston
Mayor

DATE: 2/17/2026 | 10:04 AM MST

DATE: _____

Approved as to legal form for the Regional Transportation District:

Approved as to legal form for City:

Signed by:
Nick Limberopoulos
Nick Limberopoulos
Associate General Counsel

Nathan Lucero
Assistant City Attorney

Contract Control Number: DOTI-202683170-00
Contractor Name: REGIONAL TRANSPORTATION DISTRICT

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Exhibit A

Scope of Work

Welton Corridor Study Project Scope

Project Overview

Project Background & Justification

Welton Street runs through the heart of Denver's historic black community and commercial district in the Five Points neighborhood. Today, the corridor faces challenges related to underperforming transit service, constrained public space, and rapid new development alongside the continued closure of legacy small businesses—raising concerns about cultural continuity, economic inclusivity, and the future role of transit in supporting the community. This scope of work builds on more than a decade of planning focused on revitalizing the corridor and completing the FasTracks Central Rail Extension to the A Line.

Community stakeholders have consistently expressed a vision for Welton Street as a sustainable, transit-rich, and culturally vibrant corridor that fosters both economic development and community well-being. Their vision extends beyond the completion of the L-Line extension to include comprehensive improvements to Welton Street's physical infrastructure.

Welton has narrow sidewalks, one-way traffic, limited green space, and Denver's oldest light rail line, which is scheduled for a major track replacement to bring it to a state of good repair. This upcoming rail replacement presents a rare opportunity to rethink and reinvest in the corridor's public realm, aligning infrastructure upgrades with long-standing community aspirations. Community voices and this catalyst moment have prompted the launch of this study: to develop an implementable vision for Welton Street that is unconstrained by existing conditions.

This study aims to develop an actionable and forward-thinking vision for the corridor. The final outcome will identify strategies to improve transit, introduce green and public spaces, and create a welcoming streetscape that celebrates the area's cultural heritage and supports the revitalization of local businesses.

Project Priorities

- Collaborate with the community to develop a shared vision for Welton Street that supports vibrancy for residents and visitors while honoring the corridor's cultural heritage.
- Promote multimodal transportation options that prioritize walking, biking, and transit use.
- Identify a preferred transit mode and alignment that considers connectivity to downtown Denver and the 38th & Blake A-Line station.
- Integrate green infrastructure and public spaces that are inviting for people, functional for stormwater management, and have a clear maintenance strategy.

Project Study Area

- **Welton Street – Broadway to Downing (30th & Downing Station):** This segment will be the focus for full-scope corridor visioning, alternatives development, and feasibility analysis.
- **Downing Street – Welton to Blake:** This segment will be evaluated specifically for the feasibility of potential transit alignments and alternatives.

Anticipated Timeline

The activities in the scope of work are expected to be substantially complete by the end of 2026.

Proposal Submission and Selection Process

Budget & Funding Source

Approximately \$750,000 has been identified to complete this effort from RTD’s FasTracks funding. Final fee structure will be negotiated with the selected consultant team.

Schedule/Milestones

Anticipated Notice to Proceed (NTP) is 1/5/2025. This study has urgency to identify a preferred alternative by end of 2026 in order to inform whether or not RTD will continue with scheduled rail track maintenance.

Proposal Scoring

Submit an electronic proposal (max 10 pages inclusive of all material) that demonstrates the following:

Qualifications-Based Criteria	Points Allotted
Project approach and understanding	25
Qualifications/experience of key personnel in the professional areas listed in RFP	25
Utilization, commitment, and management of project team scheduling of time and funds	25
Interview follow up questions	15
Demonstrated commitment to high-quality project management and deliverables	10
	Total
	100

Values reflect the relative weighting to be considered by the review panel in scoring proposals. They are not intended to prescribe how much of the proposal should be allocated to each section.

Consultant Qualifications

The selected interdisciplinary consultant team should demonstrate expertise in the following areas:

- Transportation planning, with a focus on transit
- Civil engineering, with a focus on transit
- Community engagement
- Traffic modeling
- Green infrastructure
- Familiarity with local roadway design guidance including that of DOTI’s and RTD’s
- Additional expertise that would strengthen the team includes, but is not limited to:
 - Real estate
 - Historic preservation
 - Urban forestry
 - Urban design
 - Landscape architecture
 - Economics

Work Description

Task 1: Project Management

Project Management Plan

Consultant shall develop a Project Management Plan including (but not limited to):

- Detailed project schedule
- Detailed project fee/budget
- Documentation of concurrent projects, including key contacts and coordination needs (most notably Welton Streetscape Design project)
- Metrics to evaluate project progress
- Roster of project teams, participant roles, meeting cadences, and communication protocols
- Risk management strategy
- Change management process
- Protocols for documentation storage, version control, and file sharing
- QA/QC plan detailing deliverable internal review procedure, comment tracking, response strategies, and accessibility compliance for all public-facing documents.

Project Coordination & Meetings

Consultant shall establish and engage a Project Management Team (PMT) and Technical Advisory Committee (TAC). Consultant shall prepare, coordinate, and host meetings for these team including a kick-off meeting, bimonthly TAC meetings, monthly PMT meetings, biweekly check-ins with the City Project Manager, and other meetings as needed. Consultant will be responsible for development of meeting agendas and follow-up meeting notes and action items.

Progress Reporting

Consultant shall submit monthly progress reports with invoices summarizing completed and ongoing work, upcoming milestones, completion rates by task, and risk assessments including any mitigation strategies.

Task 1 Deliverables (draft and final)

- Project Management Plan (PMP) provided within two weeks of NTP
- Monthly Progress Reports and Invoices provided within one month of previous month's work
- Meeting Agendas and Notes provided with one business day of meetings

Task 2: Community & Stakeholder Engagement

Consultant shall develop a comprehensive strategic engagement plan to build understanding, manage controversy, and establish productive dialogue with community and regional stakeholders. The plan shall address community concerns, mitigate opposition, and create pathways for meaningful participation in project decision-making.

The engagement plan shall define phases, levels, activities, and success metrics, and shall be developed in accordance with the Department of Transportation and Infrastructure (DOTI) Office of Community & Business Engagement (OCBE) Community Engagement Guide. The plan shall build upon prior efforts and reflect community input gathered through previous engagement processes.

Consultant shall track and report engagement metrics, including attendance, demographic information, and key themes identified during outreach. Proposals shall include a contingency budget to accommodate adjustments in engagement activities in response to unforeseen needs. The

Consultant shall also propose and implement methods to engage historically underrepresented populations to ensure a diversity of community voices is represented.

Consultant shall additionally develop a national messaging framework and narrative strategy to support media relations, stakeholder communication, and coordination with grassroots organizations.

All engagement activities must comply with DOTI's Language Access Plan (LAP), the Americans with Disabilities Act (ADA), and the Colorado Accessibility Law. The Consultant shall collect data on translation and interpretation services, including the number of individuals served, the types of services provided, and the languages represented.

The Consultant shall consider inclusion of bilingual facilitators for in-person meetings and ensure interpretation services are available for virtual sessions, either through the Consultant's team or through a qualified third-party vendor providing video remote interpretation. The Consultant shall also plan for disability accommodations, including accessible document formats, American Sign Language (ASL) interpreters, and Communication Access Realtime Translation (CART) services. These inclusive practices shall be made available upon request and appropriately budgeted.

Any vital documents—defined as materials (paper or digital) that are critical for accessing services, programs, or benefits, or that are legally required—must be translated upon request.

Stakeholder Engagement

Consultant shall convene a stakeholder group to guide the project and public engagement process by hosting regular stakeholder meetings ahead of engagement phases. This group will include representatives from relevant community organizations. Consultant shall identify and profile directly impacted communities, neighborhoods, and other local/regional groups.

Community Engagement

Consultant shall design and lead a culturally inclusive and accessible community engagement process involving activities such as:

- Hybrid in-person / virtual public meetings
- "Virtual open houses" or "offline" meetings to post online to supplement public meetings
- Focus group meetings
- Attending existing community meetings or events
- Project website with regular updates
- Project email contact list
- Project email newsletter
- Project flyer(s)
- Project FAQ with regular updates
- Social media posts (coordinate with DOTI's Communications team to align messaging, branding, and use of City communication platforms)
- Surveys and/or intercept interviews
- Establishment of Community-Based Outreach Partners (CBOPs)

Task 2 Deliverables (draft and final)

- Strategic Engagement Plan
- Meeting agendas, notes, presentations, and other relevant materials

- Summaries for each engagement phase including success metrics and attendance demographics

Task 3: Existing Conditions & Situation Appraisal

Consultant shall establish a foundational understanding of existing conditions along the Welton and Downing Street corridors to inform visioning and alternatives development. This work will involve garnering a deep understanding of various past studies, as well as both technical analyses and qualitative assessments. This task will culminate with a formal Situational Appraisal to serve as a platform for transparent conversations with community about current challenges and opportunities. In-person site visits will be necessary for confirming any desktop data analysis.

Planning Context and Physical Conditions Review

Review and synthesize previous planning efforts including but not limited to:

- FasTracks Plan (RTD, 2004)
- [Northeast Downtown Neighborhoods Plan](#) (City & County of Denver, 2011)
- Five Points Welton Street Marketplace Vision Plan (2011)
- Welton Corridor Technical Assistance Panel (TAP) Report (Urban Land Institute, 2011)
- [Five Points Vision Plan Implementation & Revitalization Strategy](#) (Five Points BID, 2013)
- [Transit Oriented Development Strategic Plan](#) (City & County of Denver, 2014)
- [Central Rail Extension Mobility Study](#) (RTD, 2014)
- Northeast Downtown Neighborhoods Plan: Next Steps Study (2015)
- [Five Points Neighborhood Transportation Management Program Action Plan](#) (2019)
- [FasTracks Initial Unfinished Corridors Report](#) (RTD, 2019)
- [Denverright Comprehensive Plan 2040](#) (City & County of Denver, 2019)
 - [Blueprint Denver](#) (City & County of Denver, 2019)
 - [Denver Moves: Transit](#) (City & County of Denver, 2019)
 - [Denver Moves: Pedestrians and Trails](#) (City & County of Denver, 2019)
 - [Game Plan for a Healthy City](#) (City & County of Denver, 2019)
- [Denver Moves Downtown](#) (City & County of Denver, 2020)
- [Vision Zero Action Plan](#) (City & County of Denver, 2022)
- [Denver Moves Bikes](#) (City & County of Denver, 2024)
- Revisioning Welton Street (Five Points BID, 2024)
- [Downtown Area Plan](#) (City & County of Denver, 2025)
- [Urban Forest Strategic Plan](#) (City & County of Denver, 2024)
- [DePaving a Greener Denver](#) (City & County of Denver, 2025)
- [Finishing FasTracks Report](#) (RTD, 2025)
- Light Rail Level Boarding Feasibility Study (RTD, forthcoming)

Analyze current data from the City and RTD including but not limited to:

- Existing and future land use, noting any active developments
- Traffic volumes, turning movement counts, and speeds
- Projected future traffic volumes
- Vehicle crashes and near-misses
- Multimodal improvements such as pedestrian crossings and bike facilities
- Parking restriction type and utilization
- Pedestrian conditions (sidewalks, curb ramps, etc.)
- Utilities and stormwater infrastructure (desktop)

- Existing street cross sections
- Known underground encroachments (adjacent landowners, RTD)
- Width of right-of-way and various cross section elements

L-Line Light Rail Performance Assessment

Conduct a data-driven assessment of the L-Line's current and historical performance, focusing on ridership and service metrics, to evaluate its role in the corridor's current condition. Document maintenance needs and track replacement plans based on coordination with RTD. Identify operational strengths, weaknesses, opportunities, and constraints to inform future corridor decisions and distinguish between real and perceived impacts of light rail service.

Economic and Business Vitality Assessment

Analyze economic conditions along the Welton corridor with emphasis on small business vitality, exploring factors such as historic redlining, real estate trends, redevelopment pressure, urban design, COVID-era impacts, financial and regulatory barriers, gentrification, and disparities in business ownership and capital access. Use available data, such as business licenses, commercial rents, vacancy rates, and conversations with small business owners, to ground findings in real-world experience.

Downing Street Light Rail Feasibility Assessment

Before weighing options on Welton Street, it is necessary to determine whether extending light rail from 31st & Downing to 38th & Blake is realistically feasible. The feasibility of this extension will directly influence the long-term vision for transit on Welton Street. Consultant shall refer to previous planning efforts and analyze the existing right-of-way on Downing to evaluate the cost and benefit of implementing light rail. Analysis must identify key constraints such as ROW, conflicts with existing or planned utilities and infrastructure, property or access impacts, safety, and traffic operations.

Task 3 Deliverables (draft and final)

- Existing Conditions Report
- Situation Appraisal Memo
- Public-Facing Summary Materials
- Supporting datasets (e.g., GIS layers, traffic counts, ridership tables)

Task 4: Corridor Visioning & Alternatives Identification

Consultant shall collaborate with community to establish a clear vision and goals for the Welton and Downing corridor. Consultant shall then translate that vision and goals into high-level alternative scenarios to screen for initial feasibility. This process shall be rooted in community priorities and alignment with major near-term funding and infrastructure decisions, such as RTD's rail replacement and FasTracks implementation strategy.

Vision & Goals Framework Development

Facilitate a collaborative process with stakeholders and community members to establish vision and goals for Downing and Welton, centered on economic vitality, cultural identity, transit accessibility, safe and comfortable walking and biking, and enhanced green infrastructure and placemaking. Incorporate values and desired outcomes from previous plans and ongoing community engagement to shape a cohesive vision and goals framework.

Multimodal Network and Modal Priority Analysis

Conduct a network-level analysis of Welton, California, Stout, and Champa Streets to define clear modal priorities for each corridor, considering the future MLK Jr. Boulevard BRT alignment, existing and planned bike facilities, potential two-way conversions, transit reliability, and multimodal safety and traffic impacts. Use this analysis to ensure network-wide functionality and identify where trade-offs between modes may be necessary.

Alternative Scenarios Identification

Identify high-level alternative scenarios for Welton and Downing to achieve the vision and goals, exploring options for transit type and alignment, one-way to two-way conversion, pedestrian and bike improvements, green infrastructure, street trees, and streetscaping elements. Create visualizations such as cross sections and rendered perspectives. Incorporate feedback from community and technical stakeholders, with attention to preferences around implementation timelines and investment levels.

Task 4 Deliverables (draft and final)

- Corridor Vision & Alternative Development Memo
- Public-Facing Summary Materials

Task 5: Preferred Alternative Evaluation, Refinement, & Selection

Consultant shall conduct an in-depth feasibility assessment of the preferred alternative(s) developed in Task 4, leading to the identification of a singular recommended alternative. Refine the preferred option based on technical analysis and feedback from the PMT, TAC, DOTI and RTD staff, stakeholders, and the public. Evaluate alternatives using established criteria, such as transit performance, economic accessibility, and community priorities, considering trade-offs related to transit reliability, circulation, safety, green infrastructure, curbside uses, and streetscaping. Facilitate meetings to confirm the final direction.

Consultant shall prepare visuals (cross sections, plan views) for the preferred alternatives and summarize findings and rationale in a memo that is accessible to stakeholders.

Traffic Modeling

Consultant shall propose a mobility network analysis methodology that addresses data collection requirements, proposed software, calibration methodologies and other key assumptions and methodologies. The approach shall be submitted in a mobility network analysis memorandum for review by DOTI staff. The proposed approach should account for measures of effectiveness that relate back to alternatives evaluation criteria and overall corridor vision and goals. Accordingly, this memo should be finalized early in the project but not until a reasonable assessment of alternatives evaluation criteria has been conducted.

It should be noted that DOTI staff are open to the use of various quantitative and qualitative analytical approaches and software to perform the proposed analysis. The consultant will be required to explain their proposed approach and selection of specific software in the memo and are encouraged to present initial ideas in their proposal.

Task 5 Deliverables (draft and final)

- Recommended Alternative Summary Memo
- Traffic Modeling Memo
- Public-Facing Summary Materials

Task 6: Environmental Overview

This task includes high-level environmental due diligence to support future design, permitting, and potential NEPA efforts. Consultant shall conduct a desktop and limited field review to inventory environmental resources along the corridor, including water and stormwater infrastructure, hazardous materials, historic and biological resources, environmental justice considerations, noise-sensitive areas, Section 4(f)/6(f) resources, visual quality, and regional air quality context. Identify potential environmental impacts, permitting needs, and outline NEPA triggers and class-of-action considerations should a federal nexus arise.

Task 6 Deliverables (draft and final)

- Environmental Overview Memo
- Documentation (including maps) of data collected

Task 7: Financial Feasibility & Funding Strategy

This task evaluates the financial feasibility of the preferred alternative and outlines a strategy for implementation, including alignment with state legislation, agency funding cycles, and potential ballot measures. Consultant shall refine planning-level capital cost estimates using FTA's Standard Cost Categories, encompassing all corridor elements such as transit infrastructure, streetscaping, green infrastructure, utility upgrades, active transportation facilities, and supporting infrastructure. Conduct a revenue assessment to identify potential funding sources and constraints, including RTD and City budgets, grant opportunities, and capital improvement programs. Align cost ranges with feasible funding pathways to support implementation.

Task 7 Deliverables (draft and final)

- Financial Feasibility & Funding Strategy Memo
- Annotated cost estimate spreadsheet including an explanation of assumptions

Task 8: Preliminary Design & Corridor Implementation Plan

Following the selection of a preferred alternative, develop early-stage (10%) design to support refined cost estimates, implementation phasing, and future grant applications. Prepare conceptual engineering drawings addressing right-of-way constraints, drainage and green stormwater infrastructure, signal upgrades, transit stop placement, curbside management, and streetscaping. Develop an implementation plan outlining phasing strategies, business support, construction timelines, public involvement, and TDM measures.

Task 8 Deliverables (draft and final)

- 10% Design
- Updated Cost Estimate
- Corridor Implementation Plan
- Public-Facing Summary Materials
- GIS geodatabase and excel table with projects mapped and coded using the [DME Database template](#). Database template and mapping instructions will be provided by DOTI.

Exhibit B

Federal Transit Administration (FTA) Required Provisions

EXHIBIT B
FEDERALLY REQUIRED TERMS AND CONDITIONS

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I. DEFINITIONS

All capitalized terms used in this Section (Federally Required Terms and Conditions) and not otherwise defined in this Section (Federally Required Terms and Conditions) have the meanings assigned to them in the FTA Master Agreement and the General Terms and Conditions attached to this Contract. The following definitions shall apply to this Section (Federally Required Terms and Conditions):

- A. **Contract** means this IGA or Third Party Contracts, as applicable.
- B. **Contractor** means the City or Third Party Participants, as applicable.
- C. **Flow-Down Clause** means a section of this Section (Federally Required Terms and Conditions), including all subsections, that Contractor must include, unmodified (except to identify the appropriate parties), in each Third Party Agreement funded under this Contract.
- D. **FTA Master Agreement** means the Master Agreement for Federal Transit Administration Agreements by and between the Federal Transportation Administration (FTA) and RTD, as updated from time to time.

II. ALL FEDERALLY-FUNDED CONTRACTS

1. APPLICATION OF FEDERAL REQUIREMENTS

- A. 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 FTA Master Agreement, 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. 49 C.F.R. Part 18.
- B. The Contractor is advised that Federal requirements applicable to this Contract as set forth in federal law, regulations, policies, and related administrative practices may

change during the performance of this Contract. Any such changes shall also apply to this Contract and subcontracts at all tiers.

2. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTY PARTICIPANTS

- 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 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 the Contract) pertaining to any matter resulting from the Contract.
- B. This section is a Flow-Down Clause.

3. STANDARDS OF CONDUCT

- A. Contractor agrees to establish and maintain written Standards of Conduct covering conflicts of interest that:
 - 1. Apply to the following individuals who have a present or potential financial interest, or other significant interest, such as a present or potential employment interest in the selection, award, or administration of a Third Party Contract or subcontract:
 - a. officers, employees, board members, or agents engaged in the selection, award, or administration of any third party agreement ("Involved Parties");
 - b. The immediate family members or partners of the Involved Parties; and
 - c. An entity or organization that employs or is about to employ any Involved Parties;
 - 2. Prohibit any Involved Part above from:
 - a. Engaging in any activities involving RTD's or Contractor's present or potential Third Party Participants at any tier, including selection, award, or administration of a third party agreement in which the individual has a present or potential financial or other significant interest; and
 - b. Accepting a gratuity, favor, or anything of monetary value from a present or potential Third Party Participant in the Contract, unless the gift is unsolicited and has an insubstantial financial or nominal intrinsic value; and
 - 3. Establish penalties, sanctions, or other disciplinary actions for violations, as permitted by state or local law or regulations, that apply to those individuals listed above and Third Party Participants.
- B. Contractor affirms that it has not paid, and agrees that it will not pay, any bonus or commission to obtain federal assistance for any Project or related activities supported under the Contract.
- C. This section is a Flow-Down Clause.

4. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- A. The 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 C.F.R. part 31, apply to its actions pertaining to this Contract. Upon execution of the Contract, the 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 Contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the 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 the Contractor to the extent the Federal Government deems appropriate.
- B. The 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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.
- C. This section is a Flow-Down Clause.

5. TRAFFICKING IN PERSONS

The Contractor agrees that the Contractor and its employees shall not, at any time during the performance of this Contract, do any of the following:

- A. Engage in severe forms of trafficking in persons, as defined Section 103 of the Trafficking Victims Protection Act of 2000 ("TVPA"), as amended, 22 U.S.C. § 7102;
- B. Procure a commercial sex act, as defined Section 103 of the TVPA, as amended, 22 U.S.C. § 7102; or
- C. Use forced labor, defined as labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery, in the performance of the Contract or permit the use of forced labor in the performance of any subcontract hereunder.

6. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

- A. Contractor agrees that, prior to entering into any subcontract, Contractor will require the subcontractor to provide a certification on Federal Tax Liability and Recent Felony Convictions, which should be identical to the certification that Contractor provided by

RTD. If the prospective subcontractor cannot certify as to the statements, Contractor shall not enter into the subcontract absent RTD and FTA approval.

B. This section is a Flow-Down Clause.

7. ACCESS TO RECORDS AND REPORTS

A. Contractor will retain and will require its Third Party Participants of all tiers to retain, complete and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

B. Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

C. Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the Contractor may regard as confidential or proprietary, related to performance of this Contract as reasonably may be required. The Contractor shall maintain complete and readily accessible records, and shall permit RTD, the U.S. Department of Transportation, and the Comptroller General of the United States or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such Contractor, involving transactions related to the Contract, for the purpose of making audit, examination, excerpts and transcriptions. Such access requires the Contractor to provide timely and reasonable access for the purpose of interview and discussion related to such documents. The rights of access in this clause are not limited to the required retention period(s) but last as long as the records are retained. Contractor agrees to otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

D. Contractor agrees to permit FTA and its contractors' access to the sites of performance under this Contract as may be reasonably required.

E. This section is a Flow-Down Clause.

8. CIVIL RIGHTS AND EQUAL OPPORTUNITY LAWS AND REGULATIONS

A. Contractor shall at all times comply with applicable federal civil rights laws, regulations, and requirements, including the laws set forth below, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing.

- B. Nondiscrimination in Federal Public Transportation Programs. Contractor agrees to, and assures that it and each Third Party Participant will:
1. Prohibit discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age.
 2. Prohibit the:
 - a. exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. 5332;
 - b. denial of program benefits in employment or a business opportunity identified in 49 U.S.C. 5332; or
 - c. discrimination identified in 49 U.S.C. 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. 5332.
 3. Follow:
 - a. The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; but
 - b. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- C. Nondiscrimination – Title VI of the Civil Rights Act. Contractor agrees to, and assures that it and each Third Party Participant will:
1. Prohibit discrimination based on race, color, or national origin;
 2. Comply with:
 - a. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;
 - b. 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; and
 - c. Federal transit law, specifically 49 U.S.C. § 5332; and
 3. Follow:
 - a. The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.
 - b. U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3; and
 - c. All other applicable federal guidance that may be issued.
- D. Equal Employment Opportunity.

1. Contractor agrees to, and assures that it and each Third Party Participant will, prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - a. Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.;
 - b. Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;
 - c. Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - d. Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of the FTA Master Agreement;
 - e. Comply with FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;" and
 - f. Follow other federal guidance pertaining to EEO laws, regulations, and requirements.
2. Contractor agrees to, and assures that it and each Third Party Participant will:
 - a. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), take affirmative action that includes, but is not limited to:
 - i. Recruitment advertising, recruitment, and employment;
 - ii. Rates of pay and other forms of compensation;
 - iii. Selection for training, including apprenticeship, and upgrading; and
 - iv. Transfers, demotions, layoffs, and terminations; but
 - b. Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer;" and
3. Nondiscrimination on the Basis of Sex. Contractor agrees to comply with federal prohibitions against discrimination based on sex, including:
 - a. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex; and
 - b. Federal transit law, specifically 49 U.S.C. § 5332.
4. Nondiscrimination on the Basis of Age. Contractor agrees to comply with federal prohibitions against discrimination based on age, including:

- a. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which prohibits discrimination by participants in federally assisted programs against individuals on the basis of age;
 - b. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which prohibits employment discrimination against individuals aged 40 and over on the basis of age; and
 - c. Federal transit law, specifically 49 U.S.C. § 5332.
5. Federal Protections for Individuals with Disabilities. Contractor agrees to comply with federal prohibitions against discrimination based on disability, including:
- a. Federal laws, including:
 - i. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - ii. 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:
 - A. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - B. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
 - iii. 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;
 - iv. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - v. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - b. Federal regulations and guidance, including:
 - i. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
 - ii. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27;

- iii. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- iv. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 CFR Part 39;
- v. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
- vi. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- vii. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- viii. U.S. Federal Communications Commission regulations,
- ix. "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 CFR Part 64, subpart F;
- x. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 CFR Part 1194;
- xi. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609;
- xii. FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
- xiii. Other applicable federal civil rights and nondiscrimination regulations and guidance.

E. This section is a Flow-Down Clause.

9. DISADVANTAGED BUSINESS ENTERPRISE AND PROMPT PAYMENT OF SUBCONTRACTORS

- A. This Contract and all subcontracts awarded under this Contract are subject to 49 C.F.R. Part 26, as applicable. Therefore, Contractor must satisfy any and all requirements for Disadvantaged Business Enterprise ("DBE") participation as set forth in this Contract and with the terms of RTD's DBE program requirements. These requirements are in addition to all other equal opportunity employment requirements of this Contract.
- B. Contractor agrees to the following assurance and assures that it will include the following assurance in each subagreement and Third Party Contract it signs with a Subrecipient or Third Party Contractor or Third Party Subcontractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and Third Party Contract it signs:

1. The Contractor, each Third Party Contractor, and each Third Party Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, Third Party Contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR Part 26;
 2. The Contractor, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, Third Party Contracts, and third party subcontracts, as applicable;
 3. Failure by the Subrecipient Contractor and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subsection of this Section (Federally Required Terms and Conditions) is a material breach of this contract, subagreement, Third Party Contract, or third party subcontract, as applicable; and
 4. The following remedies, or such other remedy as RTD deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Contractor, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- C. If the Contract has a defined DBE goal, Contractor shall utilize the specific DBEs listed in its bid/proposal/offer to perform the work and supply the materials for which each is listed, unless Contractor obtains RTD's written consent. Unless RTD's consent is provided, Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE pursuant to 49 C.F.R. § 26.53(f)(1).
- D. Contractor will comply with the following prompt payment requirements:
1. Contractor shall pay its respective subcontractors any undisputed amount owed to such subcontractor within thirty (30) days of receipt of the subcontractor's invoice by such Contractor, regardless of whether such Contractor has been paid for such invoice by RTD;
 2. Contractor's approval of subcontractor invoices shall not be unreasonably delayed, and the invoices shall be either approved or rejected with written notice of deficiency or dispute to the payee subcontractor within ten (10) days of receipt of invoice by the Contractor; and
 3. Contractor makes prompt and full payment of any retainage kept by such Contractor to its respective subcontractors within thirty (30) days after such subcontractor's work has been completed and accepted by the RTD's Project Manager or by the Contractor, unless claim is filed against a subcontractor.
- E. Contractor must have RTD's prior written consent and approval to remove, terminate, substitute or replace a DBE contractor and the Contractor must have good cause to make such change to a DBE contractor. No DBE subcontract agreement may contain a "termination for convenience" clause/provision because any termination for convenience provision/clause is contrary to the objectives of 49 CFR Part 26. To initiate the removal, termination, substitution or replacement process of a DBE contractor (regardless of the tier), the Contractor or lower tier contractor/subcontractor must

- give notice in writing to the DBE contractor and include its request to remove, terminate, substitute or replace the DBE contractor, the reason for the request and provide all documentation to support its claim. The Contractor must give the DBE contractor no less than five (5) business days to respond to the notice and provide reasons, if any, why it objects to the proposed termination of its DBE contract. The Contractor carries the burden of proof to demonstrate good cause for the removal, termination, substitution or replacement. If RTD determines the Contractor has good cause to terminate the DBE firm, RTD will provide written consent of DBE removal and the requirements to substitute work to another DBE firm. When a DBE contractor is removed, termination, substitution or replacement with the approval of RTD, or fails to complete its work on the contract for any reason, the Contractors are required to make good faith efforts to find another DBE subcontractor to substitute for the original DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal RTD has established for this project. 49 CFR Part 26.53 shall serve as the criteria for evaluating compliance with the good faith efforts requirements. If RTD finds that good cause does not exist to terminate the DBE firm, RTD 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. Please note that if a Contractor elects to terminate, substitute and or reduce the scope of work initially committed to a DBE without the approval or consent of RTD, this constitutes a material breach of a contract as set forth under 49 C.F.R. §26.13. As required by FTA, RTD sets a triennial overall goal for DBE participation that includes the use of race-conscious and race-neutral means, an analysis and a methodology and it intends to comply and meet its overall DBE goal on an annual basis. This Contract contains a DBE participation goal (race-conscious means) and is awarded in reliance upon Contractor's representations/good faith commitments and understanding that it must comply with the DBE commitments in this Contract through subcontracting with DBEs and attain such DBE participation levels in addition to all other Contractor's representations, certifications and submittals as required by the DBE Contract Requirements of this Contract.
- F. Contractor shall cooperate with RTD in its efforts to level the playing field for DBEs and will use the good-faith efforts as defined by RTD and federal regulations codified at 49 C.F.R. Part 26 to ensure that DBEs shall have an opportunity to compete for subcontract work under this Contract.
- G. Contractor shall require its lower-tier contractors to cooperate with any audits, reviews or investigations conducted by RTD and its agents in an effort to determine compliance/non-compliance with the DBE Program requirements.
- H. If at any time RTD has reason to believe that Contractor is in violation of its obligations under this Contract or has otherwise failed to comply with the terms of this subsection of this Section (Federally Required Terms and Conditions), RTD may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:
1. Suspension of any payment or part due Contractor until such time as the issues concerning Contractor's compliance are resolved; and

2. Termination or cancellation of the Contract, in whole or in part, unless the Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.
- I. Contractor shall make available upon request a copy of all DBE subcontracts.
 - J. If subcontracts will be let, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
 - K. This section is a Flow-Down Clause.

10. INCORPORATION OF FEDERAL PROCUREMENT TERMS AND CONDITIONS

- A. The provisions of this Contract include, in part, certain standard terms and conditions required by the United States Department of Transportation (U.S. DOT), whether or not expressly set forth in the Contract. All contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as may be amended, the FTA Master Agreement, 49 U.S.C. 53, and the U.S. DOT Common Rules, 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 Contract. 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.
- B. This section is a Flow-Down Clause.

11. AWARDS INVOLVING COMMERCE

- A. Contractor agrees to comply and assures that each Third Party Participant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the Underlying Agreement involving commerce, and as the Federal Government otherwise determines applicable.
- B. This section is a Flow-Down Clause.

12. CERTAIN ENVIRONMENTAL PROTECTIONS, INCLUDING ENERGY CONSERVATION

- A. Contractor agrees to, and assures that its Third Party Participants will, comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.
- B. An Award of federal assistance requires the full compliance with applicable environmental laws, regulations, and requirements. Accordingly, Contractor agrees to, and assures that its Third Party Participants will:

1. Comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to:
 - a. Federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139;
 - b. The National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321, et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 CFR Part 1500 – 1508;
 - c. Joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622;
 - d. Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note (35 Fed. Reg. 4247); and
 - e. Other federal environmental protection laws, regulations, and requirements applicable to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto.
2. Follow the federal guidance identified herein to the extent that the guidance is consistent with applicable authorizing legislation:
 - a. Joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013;
 - b. Joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Public Law 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and
 - c. Other federal environmental guidance applicable to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto.
3. Environmental Justice. Contractor agrees to, and assures that its Third Party Participants will, promote environmental justice by following:
 - a. Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, (59 Fed. Reg. 7629, 3 C.F.R. 1994 Comp., p. 859) as well as facilitating compliance with that Executive Order;
 - b. U.S. DOT Order 5610.2(a), "Department of Transportation Updated Environmental Justice Order," 77 Fed. Reg. 27534, May 10, 2012; and
 - c. The most recent edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.
4. Other Environmental Federal Laws. Contractor agrees to comply or facilitate compliance, and assures that its Third Party Participants will comply or facilitate

compliance, with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act (42 U.S.C. § 7401 et seq.), Clean Water Act (33 U.S.C. § 1251 et seq), Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order No. 11988, as amended, "Floodplain Management." Contractor agrees:

- a. that no portion of the work required by the Contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Contract was awarded unless and until the Environmental Protection Agency eliminates the name of the facility from the listing;
 - b. that it will report all violations to FTA and the Regional Office of the Environmental Protection Agency;
 - c. to use best efforts to comply with clean air standards and clean water standards at the facility in which the Contract is being performed; and
 - d. to insert the substance of this clause into any nonexempt subcontract.
5. Corridor Preservation. Contractor agrees that:
- a. It will not develop any right-of-way acquired under 49 U.S.C. § 5323(q) in anticipation of implementing its Award until all required environmental reviews for each Project or related activities have been completed; and
 - b. It will follow FTA Final Guidance on the Application of 49 U.S.C § 5323(q) to Corridor Preservation for a Transit Project, October 27, 2014.
6. Use of Certain Public Lands. Contractor agrees to comply, and assures that its Third Party Participants will comply, with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as "section 4(f)"), and joint FHWA and FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 CFR Part 774, and referenced in 49 CFR Part 622.
7. Historic Preservation. Contractor agrees to, and assures that its Third Party Participants will:
- a. Comply with U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as "section 4(f)"), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places.
 - b. Encourage compliance with the federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108.
 - c. Comply with the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501, et seq.

- d. Comply with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 CFR Part 800.
 - e. Comply with federal requirements and follow federal guidance to avoid or mitigate adverse effects on historic properties.
8. Indian Sacred Sites. Contractor agrees to, and assures that its Third Party Participants will, facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," May 24, 1996, 42 U.S.C. § 3161 note (61 Fed. Reg. 26771).
9. Mitigation of Adverse Environmental Effects.
- a. Contractor agrees to comply with all environmental mitigation measures that may be identified as conditions that the Federal Government might impose in its finding of no significant impact or record of decision or commitments in the environmental documents that apply to the Award, such as environmental assessments, environmental impact statements, categorical exclusions, memoranda of agreement, documents required under 49 U.S.C. § 303, and other environmental documents.
 - b. Contractor agrees that:
 - i. Any mitigation measures agreed on will be incorporated by reference and made part of the Underlying Agreement and any Amendments thereto;
 - ii. Any deferred mitigation measures will be incorporated by reference and made part of the Underlying Agreement and any Amendments thereto as soon as agreement with the Federal Government is reached; and
 - iii. Any mitigation measures agreed on will not be modified or withdrawn without the written approval of the Federal Government.
10. Energy Conservation. Contractor agrees to comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321, et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 CFR Part 622, subpart C.

C. This section is a Flow-Down Clause.

13. SEAT BELT USE

- A. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-leased vehicles, or personally operated vehicles. The terms

"company-owned" and "company-leased" refer to vehicles owned or leased either by Contractor or RTD.

B. This section is a Flow-Down Clause.

14. DISTRACTED DRIVING

A. Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately owned vehicle when on official business in connection with the work performed under this Contract.

B. This section is a Flow-Down Clause.

15. CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

A. The Contractor shall not procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment" is:

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
2. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
3. Telecommunications or video surveillance services provided by such entities or using such equipment; and
4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

B. Contractor shall notify RTD immediately if Contractor or any of its subcontractors cannot comply with this provision during the performance of this Contract.

C. This section is a Flow-Down Clause.

16. ADA ACCESS

- A. Contractor must comply with 49 U.S.C. § 5332, 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.

17. ASSIGNABILITY CLAUSE

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

18. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

- A. All Third Party Contracts entered into by Contractor for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B. This section is a Flow-Down Clause.

III. CONTRACTS EXCEEDING \$10,000

1. TERMINATION

- A. Termination for Convenience. RTD may terminate this Contract, in whole or in part, at any time for RTD's convenience when it is in RTD's best interest by giving at least 14 days' written notice to Contractor. Contractor shall be paid its costs, including contract close-out costs, for work performed up to the time of termination. If Contractor has any property in its possession belonging to RTD, Contractor will account for the RTD property and dispose of it in the manner RTD directs.
- B. Termination for Cause. If Contractor fails to perform in the manner called for in the Contract, or if Contractor fails to comply with any other provisions of the Contract,

RTD may terminate this Contract for default. Any termination for default shall not in any way operate to preclude RTD from also pursuing all available remedies against Contractor and its sureties for breach or default. Termination shall be effected by serving a Notice of Termination on Contractor setting forth the manner in which Contractor is in default. Contractor will be paid only the Contract price for supplies delivered and accepted or services performed prior to termination in accordance with the manner of performance set forth in the Contract. RTD, in its sole discretion, may allow Contractor time to cure the defect; in such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If, after termination for failure to fulfill Contract obligations, it is determined that Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of RTD.

- C. Suspension. 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 for RTD's 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 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.

IV. CONTRACTS EXCEEDING \$25,000

1. DEBARMENT AND SUSPENSION

- A. Contractor agrees to comply, and assures the compliance of each Third Party Contractor at any tier, with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. 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 C.F.R. Part 180, subpart C.
- B. Contractor agrees to and assures that its will review the US. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Non-procurement Programs," before entering into any Third Party Contracts and verify that its principals, affiliates, and Third Party Contractors are eligible to participate in this Federally funded Contract and are not presently declared by any Federal department or agency to be:
1. Debarred from participation in any Federally assisted Award;
 2. Suspended from participation in any Federally assisted Award;

3. Proposed for debarment from participation in any Federally assisted Award;
 4. Declared ineligible to participate in any Federally assisted Award;
 5. Voluntarily excluded from participation in any Federally assisted Award; or
 6. Disqualified from participation in any Federally assisted Award.
- C. The accompanying certification is a material representation of fact. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the RTD, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. This section is a Flow-Down Clause.

2. NOTIFICATION OF DISPUTES, BREACHES, DEFAULTS OR OTHER LITIGATION

- A. For any contract that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220:
1. If a current or prospective legal matter that may affect the Federal Government emerges, including, but not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason, Contractor and its subcontractors at every tier must promptly notify FTA Chief Counsel and FTA Regional Counsel for Region 8. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Contract and any amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
 2. In addition, if Contractor has knowledge of potential fraud, waste, or abuse occurring on a project receiving assistance from FTA, Contractor must promptly notify the U.S. DOT Inspector General. This notification applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, *et seq.*, or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid-rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving Federal assistance. This responsibility occurs whether the project is subject to this Contract or another agreement involving a principal, officer, employee, or agent of Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change.
- B. This section is a Flow-Down Clause.

V. CONTRACTS EXCEEDING \$100,000

1. LOBBYING RESTRICTIONS

- A. Contractor agrees that neither it nor any Third Party Participant will use federal assistance to influence or attempt to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
 - 1. Laws, Regulations, Requirements, and Guidance. This includes:
 - a. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - b. U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR Part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - c. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and
 - 2. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through RTD's or Contractor's proper official channels.
- B. This section is a Flow-Down Clause.

VI. CONTRACTS EXCEEDING \$150,000

1. CLEAN AIR ACT AND CLEAN WATER ACT

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671 and the Clean Water Act, as amended, 33 U.S.C. §§1251-1377. The Contractor agrees to report each violation to RTD and understands and agrees that RTD will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- B. This section is a Flow-Down Clause.

VII. ALL CONSTRUCTION CONTRACTS

1. CERTAIN CONSTRUCTION REQUIREMENTS

- A. Contractor agrees to comply with all applicable statutes, regulations, and requirements, and follow FTA guidance in the development and implementation of construction plans and specifications, including drafting, review, and approval, for the Underlying Award.

- B. Contractor agrees to maintain competent and adequate engineering supervision at the construction site of any Project to ensure that the completed work conforms to the approved plans and specifications.

2. VETERANS EMPLOYMENT PREFERENCES

As provided in 49 U.S.C. § 5325(k), to the extent practicable, Contractor:

- A. Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a Third Party Contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and
- B. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

3. FLOOD INSURANCE

A. Contractor agrees and assures that its Third Party Participants will agree to comply with flood insurance laws and guidance as follows:

- 1. It will have flood insurance as required by the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), for any building located in a special flood hazard area (100-year flood zone), before accessing federal assistance to acquire, construct, reconstruct, repair, or improve that building.
- 2. Each such building and its contents will be covered by flood insurance in an amount at least equal to the federal investment (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, 42 U.S.C. § 4001, et seq., whichever is less.
- 3. It will follow FTA guidance, except to the extent FTA determines otherwise in writing.

B. This section is a Flow-Down Clause.

4. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS FOR CONSTRUCTION ACTIVITIES.

A. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor agrees to comply with:

- 1. U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60; and

2. Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.
- B. During the performance of the Contract, Contractor agrees as follows, pursuant to 41 C.F.R. § 60-1.4(b):

1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. Contractor 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, sex, sexual orientation, gender identity, or national origin.
3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the FTA and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. Contractor will include the portion of the sentence immediately preceding paragraph 4(B)(1) and the provisions of paragraphs 4(B)(1) through 4(B)(8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the FTA, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

VIII. CONSTRUCTION CONTRACTS EXCEEDING \$2,000

1. PREVAILING WAGE REQUIREMENTS - DAVIS BACON ACT

- A. For all construction, alteration or repair contracts in excess of \$2,000, Contractor shall comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the Contract, including the Prevailing Wage Requirements of 49 U.S.C. §5333(a), the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148), as supplemented by U.S. DOL regulations at 29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA-assisted construction, alteration, or repair projects. In accordance with the statute and as further described below, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor agrees to pay wages not less than once a week. Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.
 1. Minimum wages.
 - a. 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 below provisions of this subsection of this Section (Federally Required Terms and Conditions); 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 C.F.R. 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 classification and wage rates conformed under the below provisions of this subsection of this Section (Federally Required Terms and Conditions)) 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.

b. Wage Determination

- i. RTD 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. RTD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - A. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - B. The classification is utilized in the area by the construction industry; and

- C. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - ii. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and RTD 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 RTD to the Administrator of the Wage and Hour Division, 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 RTD or will notify RTD within the 30-day period that additional time is necessary.
 - iii. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and RTD do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), RTD shall refer the questions, including the views of all interested parties and the recommendation of RTD, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise RTD or will notify RTD within the 30-day period that additional time is necessary.
 - iv. The wage rate (including fringe benefits where appropriate) determined pursuant to above provisions of this subsection of this Section (Federally Required Terms and Conditions), 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.
 - c. 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.
 - d. 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.
- B. Withholding. 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, 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.

C. Payrolls and basic records.

1. 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.

2. Payroll Submittals

a. The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to RTD if RTD is a party to the contract, but if RTD is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to RTD. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only

need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to RTD if RTD is a party to the contract, but if RTD is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to RTD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

- 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:
 - i. That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - ii. 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;
 - iii. 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 the above provisions 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.

3. The contractor or subcontractor shall make the records required under the above provisions this Section available for inspection, copying, or transcription by authorized representatives of RTD 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.

D. Apprentices and trainees —

1. 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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, 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 Office of Apprenticeship Training, Employer and Labor Services 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 determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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.

2. 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.
3. 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.
- E. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- F. 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 RTD 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.
- G. 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.

- H. 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.

- I. 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.

- J. Certification of eligibility.
 - 1. 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).
 - 2. 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).
 - 3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

- K. This section is a Flow-Down Clause.

2. COPELAND ANTI-KICKBACK ACT

- A. For contracts in excess of \$2,000, Contractor will comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

- B. This section is a Flow-Down Clause.

IX. CONSTRUCTION CONTRACTS EXCEEDING \$100,000

1. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – CONSTRUCTION

- A. Wage and Hour Requirements. Contractor will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701- 3708), as supplemented by the U.S. DOL regulations at 29 C.F.R. Part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the

standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

- B. Violation, Liability for Unpaid Wages, Liquidated Damages. In the event of any violation of this clause, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by this clause.
- C. Withholding for Unpaid and Liquidated Damages. RTD or the FTA 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 Contractor or Third Party Participant 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 this section.
- D. This section is a Flow-Down Clause.

2. CONSTRUCTION SITE SAFETY.

- A. Contractor will comply with Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3704 and U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 CFR Part 1904; "Occupational Safety and Health Standards," 29 CFR Part 1910; and "Safety and Health Regulations for Construction," 29 CFR Part 1926.
- B. This section is a Flow-Down Clause.

X. CONSTRUCTION CONTRACTS EXCEEDING \$250,000 (SIMPLIFIED ACQUISITION THRESHOLD)

1. BONDING FOR CONSTRUCTION ACTIVITIES

- A. This Section applies to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold.

- B. A Performance Guarantee in the amount of 100 percent of the Contract value is required by RTD to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by Contractor and shall remain in full force for the term of the Contract. RTD requires all Performance Bonds to be provided by a fully qualified surety company acceptable to RTD and listed as a company currently authorized under 31 C.F.R. Part 22 as possessing a Certificate of Authority as described hereunder. RTD may require additional performance bond protection when the Contract price is increased. The increase in protection shall generally equal 100 percent of the increase in Contract price. RTD may secure additional protection by directing Contractor to increase the amount of the existing bond or to obtain an additional bond. The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that Contractor is in default under the Contract.
- C. A Labor and Materials Payment Bond equal to the full value of the Contract must be furnished by Contractor to RTD as security for payment by Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to RTD and listed as a company currently authorized under 31 C.F.R. Part 223 as possessing a Certificate of Authority as described thereunder.
- D. This section is a Flow-Down Clause.

XI. TRANSIT OPERATION CONTRACTS

1. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

- A. Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
 - 1. Under this Contract or any amendments thereto that involve public transportation operations that are supported with Federal assistance, a certification issued by U.S. DOL is a condition of the Contract, and Contractor agrees to comply with its terms and conditions.
 - 2. When the Contract involves public transportation operations and is supported with Federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of Federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract, and Contractor agrees to comply with its terms and conditions.
 - 3. The conditions of 49 U.S.C. § 5333(b) do not apply to contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under Title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.
- B. This section is a Flow-Down Clause.

2. CHARTER SERVICE OPERATIONS

- A. Prohibitions. Contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. Part 604, which provide that recipients and subrecipients of FTA assistance are prohibited from providing charter service using Federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:
1. Federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r);
 2. FTA regulations, "Charter Service," 49 C.F.R. Part 604;
 3. Any other Federal Charter Service regulations;
 4. Federal requirements; or
 5. Federal guidance.
- B. Exceptions. Apart from exceptions to the Charter Service restrictions in FTA's Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
1. FTA's Charter Service restrictions do not apply to equipment or facilities supported with Federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)-type project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that RTD uses that Federal assistance for FTA program purposes only; and
 2. FTA's Charter Service restrictions do not apply to equipment or facilities supported with the Federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type project or related activities that would have been eligible for Federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided RTD uses that Federal assistance for FTA program purposes only.
- C. Violations. Contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:
1. Barring it or any subcontractor operating public transportation under its award that has provided prohibited charter service from receiving Federal assistance from FTA;
 2. Withholding an amount of Federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
 3. Any other appropriate remedy that may apply.
- D. This section is a Flow-Down Clause.

3. SCHOOL BUS OPERATIONS

- A. Prohibitions. Contractor agrees to comply with 49 U.S.C. 5323(f) and 49 C.F.R. Part 604, and not engage in school bus operations using Federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:
 - 1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
 - 2. FTA regulations, "School Bus Operations," 49 C.F.R. Part 605;
 - 3. Any other Federal School Bus regulations; or
 - 4. Federal guidance, except as FTA determines otherwise in writing.
- B. Violations. If Contractor violates this section, FTA may:
 - 1. Bar Contractor from receiving Federal assistance for public transportation; or
 - 2. Require Contractor to take such remedial measures as FTA considers appropriate.
- C. No Federal Funds for Exceptions. When operating exclusive school bus service under an allowable exemption, Contractor may not use Federally funded equipment, vehicles, or facilities.
- D. This section is a Flow-Down Clause.

4. SUBSTANCE ABUSE (DRUG USE TESTING AND ALCOHOL MISUSE AND TESTING)

- A. Contractor agrees to comply with 49 U.S.C. § 5331 and to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655, produce any documentation necessary to establish its compliance with parts 40 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Colorado, or RTD to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. Parts 40 and 655 and review the testing process. Contractor agrees further to certify annually its compliance with parts 40 and 655 before December 31 and to submit the Management Information System (MIS) reports before February 15 to the Substance Abuse Testing Department, Regional Transportation District, 1660 Blake Street, Denver, CO 80202-1399. To certify compliance, 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*.
- B. This section is a Flow-Down Clause.

5. NATIONAL TRANSIT DATABASE (NTD) REPORTING

- A. As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must:

1. facilitate compliance with 49 U.S.C. § 5334(a), which authorizes the National Transit Database (NTD);
2. conform to the NTD reporting system and the Uniform System of Accounts and Records;
3. comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630;
4. report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, "National Transit Database," and applicable FTA instructions—
 - a. any information relating to a transit asset inventory or condition assessment conducted by the Recipient;
 - b. any data on assaults on transit workers of the Recipient;
 - c. any data on fatalities that result from an impact with a bus; and
 - d. such other information as FTA may require;
5. Comply with any other applicable reporting regulation and requirements; and
6. Follow FTA guidance.

B. This section is a Flow-Down Clause.

XII. ROLLING STOCK CONTRACTS

1. BUS TESTING

The following applies to purchases or leases of any new bus model or any bus model with a major change in configuration or components to be acquired or leased with FTA funds. Contractor agrees to comply with the bus-testing requirements under 49 U.S.C. Part 5318(e) and FTA's implementing regulation at 49 C.F.R. Part 665 to ensure that the requisitetesting is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus-testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by RTD.

2. PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS

Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663. Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. Part 663 and related FTA guidance.

3. LIMITATION OF CERTAIN ROLLING STOCK PROCUREMENTS

- A. Pursuant to Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020), Public Law 116-92 (Dec. 20, 2019) and 49 U.S.C. § 5323(u), RTD is prohibited from using financial assistance under Chapter 53 of title 49 U.S. Code to award a contract or subcontract to an entity for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock:
 - 1. is incorporated in or has manufacturing facilities in the United States; and
 - 2. is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that –
 - a. is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;
 - b. was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and
 - c. is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416) (a “Restricted Manufacturer”).
- B. For purposes of this provision, the term “otherwise related legally or financially” does not include a minority relationship or investment or a relationship with or investment in a subsidiary, joint venture, or other entity based in a country described in paragraph (1)(B) of 49 U.S.C. 5323(u) that does not export rolling stock or components of rolling stock for use in the United States.
- C. Contractor shall not provide RTD with rolling stock under this Contract if the rolling stock is from a Restricted Manufacturer or otherwise in violation of this prohibition.
- D. Contractor shall notify RTD immediately if Contractor or any of its subcontractors cannot comply with this provision during the performance of this Contract.
- E. This section is a Flow-Down Clause.

4. TVM CERTIFICATION

A Transit Vehicle Manufacturer (TVM) shall provide RTD with a certificate that complies with 49 C.F.R. 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 C.F.R. 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 C.F.R. 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.

XIII. PLANNING, RESEARCH, DEVELOPMENT AND DEMONSTRATION WORK

1. PATENT RIGHTS AND RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT
 - A. Depending on the nature of the Contract and/or project, the Federal Government may acquire patent rights when the Contractor produces a patented or patentable invention, improvement or discovery. The Federal Government's rights arise when the patent or patentable information is conceived, or first reduced to practice. When a patent is issued or patentable information becomes available, the Contractor will report the same to the Authority, to enable it to notify FTA and provide a detailed report satisfactory to FTA.
 - B. When a patent is issued or patented information becomes available as described in section 17(a)(2) of the Master Agreement, Contractor will notify RTD immediately and provide a detailed report satisfactory to RTD and the FTA.
 - C. Federal Rights. Contractor agrees that:
 1. Its rights and responsibilities and each Third Party Participant's rights and responsibilities in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof; and
 2. Unless the Federal Government determines otherwise in writing, irrespective of its status or the status 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 will 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 CFR Part 401.
 3. If this Contract is funded under a federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
 - D. License Fees and Royalties. Consistent with the applicable U.S. DOT Common Rules, Contractor agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income and must be used in compliance with applicable federal requirements.
 - E. No Limitation in Federal Rights. Nothing contained in this section shall imply a license to the Federal Government under any patent or be construed as affecting the scope

of any license or other right otherwise granted to the Federal Government under any patent.

F. This section is a Flow-Down Clause.

2. RIGHTS IN DATA AND COPYRIGHTS

- A. Definition of "Subject Data." As used in this section, "subject data" means recorded information, whether or not copyrighted, that is delivered or specified to be delivered as required by the Contract. Examples of subject data 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, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.
- B. General Federal Restrictions: The following restrictions apply to all subject data first produced in the performance of the Contract:
1. Prohibitions. Contractor may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 2. Exceptions. The prohibitions do not apply to publications or reproductions for the Contractor's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- C. Federal Government License. Contractor will provide a license to its subject data to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes.
- D. U.S. DOT Public Access Plan – Copyright License. Contractor grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Recipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- E. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs. In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Contract to the Contractor and its Third Party Participants. Therefore, the Contractor agrees that:

1. Availability of Subject Data. FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.
 2. Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
 3. Incomplete. If the Contract is not completed for any reason whatsoever, all data developed with federal assistance for the Contract becomes subject data and must be delivered as the Federal Government may direct.
 4. Exception. This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Recipient's use and acquired with FTA capital program assistance.
- F. Hold Harmless. Upon request by the Federal Government, the Contractor agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless the Federal Government against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Contractor will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees, or agents, or if indemnification is prohibited or limited by applicable state law.
- G. Restrictions on Access to Patent Rights. Nothing in this section pertaining to rights in data either implies a license to the Federal Government under any patent, or 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 Assistance or Support. The Contractor agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Contract. The Contractor agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked "Proprietary," or "Confidential."
- I. Requirements to Release Data. The Contractor understands and agrees that the Federal Government may be required to release data and information that the Contractor submits to the Federal Government as required under:

1. The Freedom of Information Act (FOIA), 5 U.S.C. § 552;
 2. The U.S. DOT Common Rules;
 3. The U.S. DOT Public Access Plan, which provides that the Contractor agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board's (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at <http://ntl.bts.gov/publicaccess/howtoaccess.html>; or
 4. Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Contract, the accompanying Award and Underlying Agreement, and any Amendments thereto.
- J. This section is a Flow-Down Clause.

XIV. CONTRACTS WITH SPECIAL TERMS AND CONDITIONS

1. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – NON-CONSTRUCTION

- A. Contractor agrees to comply and assures that each Third Party Participant will comply with all other federal laws, regulations and requirements providing wage and hour protections for non-construction employees, including, as applicable, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5, which requires that:
1. Wage and Hour Requirements. Contractor will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701- 3708), as supplemented by the U.S. DOL regulations at 29 C.F.R. Part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. Violation, Liability for Unpaid Wages, Liquidated Damages. In the event of any violation of this clause, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by this clause.
3. Withholding for Unpaid and Liquidated Damages. RTD or the FTA 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 Contractor or Third Party Participant 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 this section.
4. Payroll and Basic Records. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.

B. This section is a Flow-Down Clause.

2. BUY AMERICA REQUIREMENTS

- A. The Contractor will comply with the domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR Part 661, and 2 CFR part 200 which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by U.S. Department of Transportation (DOT) or FTA or the product is subject to a general waiver to the extent consistent with 49 U.S.C. § 5323(j). The provisions of 49 U.S.C. § 5323(j) and its implementing regulations are hereby incorporated by reference into this Contract. The Contractor shall comply with the Buy America certification(s) submitted with its

proposal/bid. If applicable, the Contractor also agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663.

B. This section is a Flow-Down Clause.

3. BUILD AMERICA, BUY AMERICA ACT

A. "Construction materials" used in connection with the Contract are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184. "Construction materials" has the meaning given in the Build America, Buy America Act and associated regulations and guidelines. In accordance with 2 CFR § 184.2(a), Contractor shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

B. This section is a Flow-Down Clause.

4. CARGO PREFERENCE – USE OF UNITED STATES-FLAG VESSELS

A. The Contractor will comply with shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381. This clause only applies to contracts in which materials, equipment, or commodities may be transported by ocean vessel in carrying out the terms of the contract. As required by 46 C.F.R. Part 381, the Contractor agrees:

1. to utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates of United States flag commercial vessels; and
2. to furnish within twenty (20) days following the date of loading for shipments originating with the United States, or within thirty (30) working days following the date of loading for shipments originating outside of the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a) above to RTD, (through the prime Contractor in the case of a Subcontractor's bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, marked with appropriate identification of the project; and
3. to insert the substance of the provisions of this clause in all Subcontracts issued pursuant to this Contract.

B. This section is a Flow-Down Clause.

5. FLY AMERICA

- A. The Contractor will comply with the air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143, which requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available.
- B. This section is a Flow-Down Clause.

6. PROCUREMENT OF RECOVERED MATERIALS/RECYCLED PRODUCTS (SOLID WASTES)

- A. 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 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.
- B. This section is a Flow-Down Clause.

7. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS

- A. Contractors agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and to follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.
- B. This section is a Flow-Down Clause.

8. SEISMIC SAFETY.

- A. Contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701, *et seq.*, and agrees that any 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 C.F.R. Part 41, and will certify to compliance to the extent required by the regulation. 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.
- B. This section is a Flow-Down Clause.

9. PRIVACY ACT

- A. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restriction and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a, as applicable. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the Contract.
- B. This section is a Flow-Down Clause.

Exhibit C

Federal Certifications

Exhibit C-1

Federal Certification Regarding Lobbying

EXHIBIT C-1

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 influencing or attempting to influence 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.

(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 section 1352, title 31, U.S Code. Any person who makes a prohibited expenditure or fails to file or amend 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 expenditure or failure.

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

_____ Signature of Proposer’s Authorized Official

_____ Name and Title of Proposer’s Authorized Official

_____ Date

Exhibit C-2

Organizational Conflicts of Interest Disclosure Requirements and Certification

EXHIBIT C-2

ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE REQUIREMENTS

(a) Organizational conflict of interest means that, because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to RTD, or the person's objectivity in performing the Work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(b) Each firm responding to the RFP shall provide the statement described in paragraph (c).

(c) This requirement will apply individually to any of the firm's consultants or lower-tier subcontractors that also furnish Work in performance of the Contract to be awarded.

(c) The statement must contain the following:

(1) Name of the firm and the number of the RFP in question.

(2) The name, address, telephone number, and federal taxpayer identification number, if applicable, of the firm.

(3) A description of the nature of the Work rendered by or to be rendered on the Contract or related to the Contract.

(4) A statement of any past (within the past 12 months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the Contract. For contractual interests, such statement must include the name, address, and telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the firm who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to RTD or any other client respecting the same subject matter of the RFP or directly relating to such subject matter. The client and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests, enough information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the Contract.

(5) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the Work to be provided in connection with the Contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the Contract or related to the Contract has been communicated as part of the statement required by section (c).

(d) Failure of a firm to provide the required statement may result in the firm being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION

The proposer is is not aware of any information bearing on the existence of any potential organizational conflict of interest as described in the Disclosure Requirements on the previous page.

If the proposer is aware of information bearing on whether a potential conflict may exist, the proposer shall provide a disclosure statement describing this information as described in the Disclosure Requirements on the previous page.

Signature _____

Title _____

Company Name: _____

Date _____

Exhibit C-3

Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

EXHIBIT C-3
CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND
OTHER RESPONSIBILITY MATTERS

- A. The proposer certifies to the best of its knowledge and belief that the proposer and each of its principals:
1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
 2. Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
 3. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph A.2. of this certification; and
 4. Has not within the preceding three years, this certification had one or more public transactions (Federal, State, or local) terminated for cause or default.
- B. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Proposer Name _____

Date: _____

By: _____

Name and Title of Authorized Representative

Signature of Authorized Representative

Exhibit C-4

Contractor's Covenant Against Contingent Fees

EXHIBIT C-4

CONTRACTOR’S COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this Contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, RTD or the Federal government shall have the right to annul this Contract without liability or, to deduct from the Contract price or consideration, or otherwise recover, the full amount of the contingent fee.

As used in this covenant:

Bona fide agency means an established commercial or selling agency, maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain RTD contracts nor holds itself out as being able to obtain any RTD contract or contracts through improper influence.

Bona fide employee means a person, employed by a Contractor and subject to the Contractor’s supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain RTD contracts nor holds out as being able to obtain any RTD contract or contracts through improper influence.

Contingent fee means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing an RTD contract.

Improper influence means any influence that induces or tends to induce an RTD employee or officer to give consideration or to act regarding an RTD contract on any basis other than the merits of the matter.

Signature _____

Title _____

Date _____

Exhibit D

Template Progress Report

Exhibit D
Template Subrecipient Progress Report Form

Subrecipient:	[]
Project:	[]
Funding Agency:	
Date of Submission of Monthly Report:	
Report Submitted By:	
Submittal Date:	

Please provide an update on the status of the project. Updates should include the following:

- Work plan deliverables (scope of work)
- Milestone status
- Invoice status (including a total of amount invoiced to date)
- Briefing of project meetings conducted
- Briefing of public meetings conducted
- NEPA Status (this item concludes when FTA issues NEPA determination) (if applicable)
- Overview of any issues that have arisen or are anticipated
- Projection of work plan and meetings for the next month

Task 0: Project Management

Task 1: Community Engagement

Task 2: Existing Conditions

Task 3: ETOD Policy and Strategy

Task 4: Opportunity Site and Infrastructure Planning

Task 5: Regulatory Framework Assessment

Task 6: First-Mile/Last-Mile Study

Task 7: Implementation Plan