Agenda for the
Regular Meeting of the
Englewood City Council
Monday, September 15, 2014
7:30 pm

Englewood Civic Center – Council Chambers
1000 Englewood Parkway
Englewood, CO 80110

1. Call to Order.

2. Invocation.

3. Pledge of Allegiance.

4. Roll Call.

5. Consideration of Minutes of Previous Session.

   a. Minutes from the Regular City Council Meeting of September 2, 2014.

   b. Introduction of Englewood City Manager Eric A. Keck and family.

   c. The newly appointed City Manager, Eric A. Keck, will be sworn in by the Honorable Judge David A. Sprecace.

   d. Brief Reception.

6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. There is an expectation that the presentation will be conducted in a respectful manner. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)

   a. Representatives from the American Council of the Blind and Visually Impaired of Colorado (Tom Christner, Director of Development and Jim Stevens, Board Member) will be present to address Council regarding an upcoming event.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. There is an expectation that the presentation will be conducted in a respectful manner. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

   Council Response to Public Comment.

8. Communications, Proclamations, and Appointments.

   a. Email from Allie Moore announcing her resignation from the Keep Englewood Beautiful Commission.

9. Consent Agenda Items

   a. Approval of Ordinances on First Reading.

   b. Approval of Ordinances on Second Reading.

      i. Council Bill No. 49, amending the NonEmergency Retirement Plan document to correctly define "spouse" for the purpose of complying with federal tax laws and the Colorado Civil Union Act.

      ii. Council Bill No. 50, authorizing an intergovernmental agreement with the U.S. Geological Survey to conduct mineralogical characterization and metal-recovery leaching studies on wastewater biosolids.

   c. Resolutions and Motions.

10. Public Hearing Items.

    a. A Public Hearing to gather input on the proposed 2015 City of Englewood Budget. (Please note a copy of the proposed 2015 City of Englewood Budget is available for review on the City website http://www.englewoodgov.org/budget and the Englewood Public Library during regular business hours)

11. Ordinances, Resolutions and Motions.

    a. Approval of Ordinances on First Reading.

    b. Approval of Ordinances on Second Reading.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

c. Resolutions and Motions.

i. Recommendation from the Finance and Administrative Services Department to approve a resolution for a supplemental appropriation for the purchase of console radios for Police and Fire dispatch. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

ii. Recommendation from the Police Department to approve, by motion, the contract for the replacement of Police and Fire console radios. Staff further recommends awarding the contract to Motorola in the amount of $355,922. **Staff Source: Tim Englert, Commander.**

iii. Recommendation from the Community Development Department to approve, by motion, a professional services agreement for the Englewood Comprehensive Plan Update. Staff further recommends awarding the contract Logan Simpson Design. The amount budgeted for this project is $150,000 in the Community Development Budget. **Staff Source: John Voboril, Long Range Planner II.**

iv. Recommendation from the Community Development Department to approve, by motion, a professional services agreement for the Englewood Light Rail Corridor Next Steps Study. Staff further recommends awarding the contract to Felsburg Holt and Ullevig. **Staff Source: John Voboril, Long Range Planner II.**

v. Recommendation from the Community Development Department to approve, by motion, a professional services agreement for the Englewood Walk and Wheel Master Plan and Program. Staff further recommends awarding the contract to OV Consulting. The funding for this project is provided in $99,999 in grant funds from Kaiser Permanente. **Staff Source: John Voboril, Long Range Planner II.**

12. General Discussion.

a. Mayor's Choice.

b. Council Members' Choice.

13. City Manager's Report.

14. City Attorney's Report.

15. Adjournment.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

Nancy Fenton

From: Allie Moore <
Sent: Thursday, September 04, 2014 9:01 AM
To: Audra Kirk
Cc: Nancy Fenton; Bob McCaslin
Subject: Stepping down from KEB

Hi Audra -
I am sorry to say that I feel the need to resign from KEB, effective immediately. I think KEB does some great projects, but I don't have time in my schedule to attend the monthly meetings.

I know I have shared this idea with you before, but wanted to suggest one more time that given the agenda each month, I think city volunteers could accomplish a lot of these great projects just by working with a volunteer coordinator and without monthly meetings. I would be glad to be involved in the future in volunteer efforts, if you maintain a list of volunteers beyond KEB members please keep me included.

Thanks for your work on the commission and I wish you guys the best moving forward.
Allie Moore

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2014

COUNCIL BILL NO. 49
INTRODUCED BY COUNCIL
MEMBER GILLIT

AN ORDINANCE AMENDING TITLE 3, CHAPTER 4, SECTION 2, SUBSECTION 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO THE CITY OF ENGLEWOOD NONEMERGENCY EMPLOYEES RETIREMENT PLAN AND TRUST AS AMENDED AND RESTATED EFFECTIVE DECEMBER 31, 2012.

WHEREAS, the Nonemergency Employees Retirement Plan changes were recommended by the Nonemergency Employees Retirement Board on August 12, 2014; and

WHEREAS, changes need to be made to the Nonemergency Employees Retirement Plan (NERP) to clarify language defining "spouse"; and

WHEREAS, the Nonemergency Employees Retirement Plan (NERP) must correctly define "spouse" for the purposes of complying with federal tax laws and the Colorado Civil Union Act; and

WHEREAS, the effective date of May 1, 2013 for the amendment allows the Nonemergency Employees Retirement Plan to comply with the necessary effective dates for federal tax laws and the Colorado Civil Union Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 3, Chapter 4, Section 2, Subsection 2, entitled *Definitions* of the Englewood Municipal Code 2000, by the addition of a new paragraph CC, to read as follows:

3-4-2-2: Definitions.

Unless the context otherwise requires, the definitions and general provisions contained in this Subsection govern the construction of this restated Plan.

A. *Accrued Benefit* means the benefit determined in accordance with Section 3-4-7 hereof.

B. *Accumulated Contributions* means the sum of the Member's contributions to this Plan, credited with interest thereon at the rate of three and one-half percent (3.5%) per annum to the date payment of the Member's benefit commences.

C. *Actuarial (or Actuarially) Equivalent* means equality in value of the aggregate amounts expected to be received under different forms of payment based on interest rate and mortality assumptions as defined below unless otherwise specifically provided in the Plan:

1. *Interest Rate Assumption for Alternative Periodic Benefits.* The interest rate used for purposes of computing alternative periodic forms of benefits shall be seven and one-half percent (7.5%) effective January 1, 1986.

2. *Interest Rate Assumption for Single-Sum Payments.* Effective for the calendar year beginning on January 1, 1986, and for each calendar year following sequentially thereafter, the interest rate used for purposes of computing single-sum payments shall be the immediate annuity rate (subject to adjustment as required for deferred annuities) used by the Pension Benefit Guaranty Corporation as of the January 1 coincident with or preceding the date as of which the amount of the alternative form of benefit is being determined hereunder.

3. *Mortality Assumption.*

   a. Effective January 1, 2012, the mortality assumption for calculation shall be a unisex rate that is fifty percent (50%) male, fifty percent (50%) female, taken from the 1994 group annuity mortality table. For the period July 1, 1999 to December 31, 2011, such mortality assumption shall be a unisex rate that is fifty percent (50%) male, fifty percent (50%) female, taken from the 1983 group annuity mortality table. Prior to July 1, 1999, such mortality assumption shall be a unisex rate that is fifty percent (50%) male, fifty percent (50%) female, taken from the 1971 group annuity mortality table.

   b. Solely for purposes of Section 3-4-16-2, hereof, on and after January 1, 2012, the mortality assumption for calculation shall be a unisex rate that is fifty percent (50%) male, fifty percent (50%) female, taken from the 1994 group annuity mortality table. In the case of distribution with annuity starting dates on or after December 31, 2002, the mortality table used to adjust any benefit or limitation under Code Section 415(b)(2)(B), (C), or (D) as set forth in Section 3-4-16-3 of the Plan is the table prescribed by Rev. Rul. 2001-62.

D. *Beneficiary* means the person or persons who are so designated by the Member, or Vested Member, in accordance with Section 3-4-8-7, to receive any payment to which a Beneficiary may become entitled under this Plan.

E. *Board or Retirement Board* means the Board appointed by the City Council and charged with the general administration of the Plan as set forth in Section 3-4-11-1 hereof.

F. *City* means the City of Englewood, State of Colorado.

G. *City Council* means the City Council of the City.

H. *Code or Internal Revenue Code* means the Internal Revenue Code of 1986 26 USC (1986), as amended from time to time.

I. *Compensation* means the total cash remuneration paid to a Member for a calendar year by the City for personal services while earning Credited Service as reported on the Member's income tax withholding statement or statements (Form W-2, or its subsequent equivalent), including longevity pay and excluding bonuses, extra pay, compensation time, overtime, lump-sum payments in lieu of accrued vacation time, sick leave, or personal leave, worker's compensation and any contribution by the City under this Plan, or the like, but including

any compensation that the Member has elected to have deferred under Section 457 and Section 125 of the Internal Revenue Code. Effective January 1, 1989, the amount of a Member's compensation for the purposes of the Plan during any Plan Year shall not exceed two hundred thousand dollars ($200,000.00) subject to cost-of-living adjustments in accordance with Code Section 415(d).

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1996, the annual compensation of each "noneligible member" taken into account under the Plan shall not exceed the Omnibus Budget Reconciliation Act '93 annual compensation limit. The OBRA '93 annual compensation limit is one hundred fifty thousand dollars ($150,000.00), as adjusted by the commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(b). The cost of living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. A "noneligible member" is any Member who first became a Member in the Plan during a Plan Year beginning on or after January 1, 1996.

Effective January 1, 1989, through December 31, 1996, in determining the compensation of a Member for purposes of this limitation, the rules of Code Section 414(q)(6), shall apply, except in applying such rules, the term "family" shall include only the spouse of the Member and any lineal descendants of the Member who have not attained age 19 before the close of the year, effective January 1, 1989 through December 31, 1996, if, as a result of the application of such rules the adjusted annual compensation limitation is exceeded then the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this Subsection 2-10-2-2(i), of the Englewood Municipal Code prior to the application of this limitation. For purposes of calculating Compensation on or after January 1, 2002, the limitation under Code Section 401(a)(17) is increased to two hundred thousand dollars ($200,000.00), as adjusted.

J. *Credited Service* means the period of Service rendered by an Employee as a Member for which credit is allowed.

K. *Disability* means a physical or mental condition which entitles the Member to receive a disability income under the long-term disability insurance contract maintained by the City.

L. *Effective Date* This Plan was originally effective January 1, 1970 and has been amended and restated from time to time.

M. *Employee* means any person employed by the City as a full-time, non-exempt, non-confidential, non-supervisory (hourly) employee who is covered by the overtime provisions of the Fair Labor Standards Act. For the purposes of this retirement Plan, police officers, paid firefighters, elected officials and temporary employees shall not be considered to be Employees. If a person who was excluded from this definition of Employee is later determined to have been misclassified or is reclassified, the person shall continue to be treated as not an Employee for all Plan purposes for periods prior to the date the person's classification is revised.

N. *Exempt Employee* means an Employee having one of the following titles as defined by City Personnel Policies and Procedures: City Manager, Deputy City Manager, any Department Directors, Municipal Court Judge, City Attorney, and Assistant City Attorney. Effective January 1, 1988, "Exempt Employee" shall also include any managerial, supervisory or confidential employee as defined by City Personnel Policies and Procedures.

O. *Final Average Monthly Compensation* means 1/36 of a Member's total Compensation during the thirty-six (36) consecutive full calendar months (determined without the inclusion of any Break in Service) within the last one hundred twenty (120) completed full calendar months of employment with the City which yield the highest average Compensation. In the event the Member was employed for fewer than thirty-six (36) consecutive full calendar months, such average monthly compensation shall be based on his Compensation for the thirty-six (36) successive full months during his last one hundred twenty (120) full calendar months of employment with the City that would yield the highest average, or his full period of such employment, if less than thirty-six (36) months. For purposes of calculating Final Average Monthly Compensation, a retroactive increase in a Member's Compensation shall be considered Compensation only for the calendar month for which the increase is paid (not for the month in which the payment occurs).

P. *Insurance Company* means any insurance company or companies appointed by the City for long-term disability coverage, or as provided in Subsection 3-4-12-3 hereof.

Q. *Leave of Absence* means any absence authorized by the Employer under such Employer's standard personnel practices, provided that all persons under similar circumstances must be treated alike in the granting of such Leave of Absence, and provided further that the Employee returns or retires within the period specified in the authorized Leave of Absence.

R. *Member* means any person included in the membership of this Plan as provided in Section 3-4-3 hereof.

S. *Normal Retirement Age* means age sixty-five (65).

T. *Normal Retirement Date* means the first day of the calendar month coincident with or next following the sixty-fifth (65th) birthday of the Member.

U. *Plan* means City of Englewood Nonemergency Employees Retirement Plan and Trust, as amended from time to time.

V. *Plan Administrator* means the Retirement Board of the City.

W. *Plan Year* means the calendar year starting January 1 and ending December 31.

X. *Previous Plan* means the Plan (including the City of Englewood Retirement Plan and any predecessor plan(s) thereto) in force and effect for the period prior to December 31, 2012. Any reference herein to the Previous Plan as of a certain date or for a certain period shall be deemed a reference to the Previous Plan as then in effect.

Y. *Retired Member* means a former Member whose employment terminated by reason of retirement according to Section 3-4-6-1, 3-4-6-2 or 3-4-6-3 and who is receiving or is entitled to receive, or whose Beneficiary or estate is entitled to receive, benefits under this Plan.

Z. *Retirement Benefit or Pension* means any Retirement Benefit provided for in Section 3-4-7 hereof.

AA. *Retirement Fund or Fund* means the "City of Englewood Nonemergency Employees Retirement Fund," maintained by the Retirement Board or in accordance with the terms of the Trust Agreement, amended from time to time, which constitutes a part of this Plan.

BB. *Service* means a person's period or periods of employment as an Employee used in determining eligibility or the amount of benefits as described in Section 3-4-4 hereof.

CC. Spouse. Effective May 1, 2013, spouse is defined as follows: (a) for purposes of federal tax laws applicable to this Plan, spouse is defined according to federal tax laws, including Rev. Rul. 2013-17 and subsequent regulations and rulings, and includes a spouse lawfully married under the laws of one of the 50 states, the District of Columbia, a U.S. territory or a foreign jurisdiction, regardless of whether the spouses remain residents of the state, territory or jurisdiction in which they were married; (b) for all other purposes, spouse is defined according to federal tax laws and, in addition, spouse is defined to include parties to a Colorado civil union.

~~CC~~ DD. *Trustee* means any qualified and acting Trustee appointed by the City Council as Named Fiduciary for the investment and management of Plan assets, as provided in Section 3-4-12 hereof.

~~DD~~EE. *Vested Member* means a former Member whose Credited Service has terminated by reason other than retirement or Disability, who has completed at least five (5) years of Credited Service and who is entitled to receive, or whose Beneficiary or estate is entitled to receive, benefits under this Plan. A Vested Member shall become a Retired Member upon the actual commencement of benefit payments.

Section 2. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or it application to other persons or circumstances.

Section 4. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as

still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 2nd day of September, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5th day of September, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of September, 2014 for thirty (30) days.

Read by title and passed on final reading on the 15th day of September, 2014.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2014, on the 19th day of September, 2014.

Published by title on the City's official website beginning on the 17th day of September, 2014 for thirty (30) days.

This Ordinance shall take effect thirty (30) days after publication following final passage.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2014.

_____
Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2014

COUNCIL BILL NO. 50
INTRODUCED BY COUNCIL
MEMBER OLSON

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR AND THE CITY OF ENGLEWOOD, COLORADO ENTITLED USGS FACILITY USE/SERVICE AGREEMENT AUTHORIZED BY 15 USC 3710(A) AS AMENDED FOR WATER RESOURCES INVESTIGATIONS.

WHEREAS, the Wastewater biosolids are known to contain a variety of chemical elements produced from domestic, commercial and industrial sources in the Littleton/Englewood service area; and

WHEREAS, biosolids contain various metals which are monitored on a routine basis, following EPA regulations; and

WHEREAS, the L/E Wastewater Treatment Plant wishes to cooperate in a test of biosolids to evaluate whether these metals can be reclaimed and/or recycled; and

WHEREAS, the Project needs to characterize biosolids samples from a variety of locations, different treatment plants, to evaluate the samples of metal recovery potential; and

WHEREAS, USGS personnel will conduct chemical characterization and perform mineralogical characterizations and metal-recovery leaching studies on these samples; and

WHEREAS, the USGS Energy and Minerals Mission Area provides impartial science and information for understanding the occurrence and distribution of national and global energy and mineral resources that may contribute to supplies, the potential environmental and other effects stemming from resource use, and the global supply and flow of non-fuel mineral commodities; and

WHEREAS, this work is supported by the USGS Mineral Resources Program metal and Mineral Commodities in the Build and Waste Stream Environments Project; and

WHEREAS, the proposed ordinance authorizes an intergovernmental agreement entitled *USGS Facility Use/Service Agreement Authorized by 15 USC 3710(A) As Amended* between the U.S. Geological Survey (USGS) and the City to conduct mineralogical characterization and metal-recovery leaching studies (Project) on wastewater biosolids.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The intergovernmental agreement "USGS Facility Use/Service Agreement Authorized By 15 USC 3710(A) As Amended", attached hereto as "Exhibit A," is hereby accepted and approved by the Englewood City Council.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal the intergovernmental agreement "USGS Facility Use/Service Agreement Authorized By 15 USC 3710(A) As Amended", for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 2nd day of September, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5th day of September, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of September, 2014 for thirty (30) days.

Read by title and passed on final reading on the 15th day of September, 2014.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2014, on the 19th day of September, 2014.

Published by title on the City's official website beginning on the 17th day of September, 2014 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2014.

_____
Loucrishia A. Ellis

EXHIBIT A

USGS Agreement#: 14SWFUSAEWTPKS
OPA File #: FUSA14-3812

USGS FACILITY USE/SERVICE AGREEMENT
AUTHORIZED BY 15 USC 3710 (A) AS AMENDED

1.	**Name & Address USGS Facility:** Kathleen Smith U.S. Geological Survey Crustal Geophysics and Geochemistry Science Center (GGCMRP0000) PO Box 25046, Denver Federal Center, MS 964D Denver, CO 80225-0046
2.	**Name & Address of Collaborator:** Littleton/Englewood Wastewater Treatment Plant (LEWWTP) 2900 S. Platte River Drive Englewood, CO 80110 Tax ID Number (TIN): 84-6000583
3.	**Describe type of technical assistance to be furnished by USGS:** Personnel from the LEWWTP will provide three Class B biosolids samples to the USGS. USGS personnel will conduct chemical characterization, and perform mineralogical characterization and metal-recovery leaching studies on selected samples of interest. The USGS will provide a compilation of the data to the LEWWTP. Data gathered on the samples by the USGS will be published, hut not necessarily during the time period of this agreement. The samples will be picked up by USGS personnel from LEWWTP. The USGS will not be required to return the samples once the study has been completed.
4.	**Benefit of project work to USGS missions:** This collaboration supports the mission of the USGS Energy and Minerals Mission Area to provide impartial science and information for understanding the occurrence and distribution of national and global energy and mineral resources that may contribute to supplies, the potential environmental and other effects stemming from resource use, and the global supply and flow of non-fuel mineral commodities. This work is supported by the USGS Mineral Resources Program Metal and Mineral Commodities in the Built and Waste Stream Environments Project. The Project needs to characterize biosolids samples from a variety of locations to evaluate the samples for metal recovery potential.
5.	**Collaborator explanation of bow the specified research activity assists your company, program or project work:** Biosolids are known to contain a variety of chemical elements, and the collaborator has the need to characterize concentrations of chemical elements in their biosolids. Data generated by the USGS can be used to inform the characterization and evaluation of potential recovery of valuable metals.
6.	**Project Term:** **Delivery Date:** The project will begin on the date of the final signature and end on September 30, 2015.
7.	**Reimbursement/Cost Share:** There is no funding involved in this agreement. The USGS is providing in-kind services valued at $450. The Collaborator is providing in-kind services valued at $100.
8.	**USGS Contacts:** Technical POC: Kathleen Smith, 303-236-5788 Financial POC: Stacy Briles, AO, 303-236-1705
9.	**Collaborator Contacts** Technical POC: Jim Tallent, Littleton/Englewood WWTP Financial POC: Alicia Stutz, Procurement Specialist, Finance/Admin Services, City of Englewood

303-762-2610	303-762-2412
2900 S. Platte River Drive Englewood, CO 80110	1000 Englewood Parkway Englewood, CO 80110

10. Terms of Agreement:

a) The Collaborator has determined that the capabilities of the above listed facility are unique and not readily available from the private sector.

b) Scientific results will be provided on a "best efforts" basis by the USGS.

c) **The USGS MAKES NO WARRANTIES ABOUT THE INFORMATION IT DELIVERS OR ITS USEFULNESS FOR A PARTICULAR PURPOSE.**

d) The parties do not anticipate the development of any intellectual property (IP) as part of this agreement. However in the event that IP, which is defined as patents, copyrights, new inventions, or discoveries, is created in the course of the technical assistance, such IP shall be the property or joint property of the organization employing the respective individual(s) who made the invention or discovery. Any IP developed will be reported by the developer to his/her Technical Contact who will in turn notify the other party's Technical Contact.

e) Collaborator/User understands that Government work will have priority over this project in the event that a scheduling conflict develops in the laboratory.

f) Both the USGS and the Collaborator may utilize the generated information developed by the USGS in databases, papers, or as part of other scientific information.

g) This Agreement may be cancelled on 30 days written notice by either party to the other.

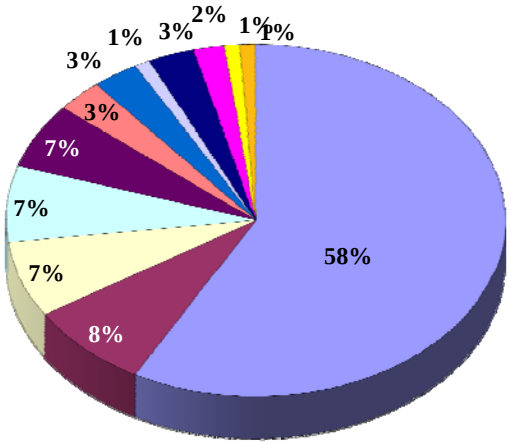
h) The Technical Contacts listed herein shall attempt to jointly resolve any disputes arising from the Agreement. Any dispute that they are unable to resolve shall be submitted to the Director of the USGS or his designee and the President or his designee of the Collaborator, for final resolution.

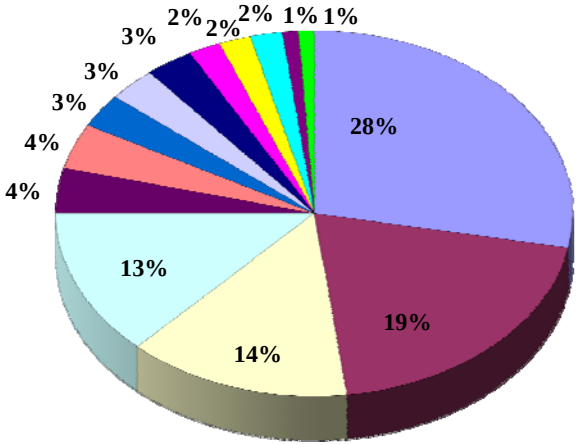
i) The purposes of this Agreement and all services to be provided hereunder, each party shall be, and shall he deemed to be, an independent entity and not an agent or employee of the other party.

j) The terms of this Facility Use Agreement are the only terms that govern the parties' agreement and the research/technical work to he completed by the USGS. The USGS is not bound by and does not accept any additional or supplemental terms or conditions contained in any Purchase Order or other document used hy the Collaborator to order or pay for research services. Such documents are accepted by the USGS solely as a convenience to the Collaborator and are not intended to modify or expand the terms of the parties' agreement.

U.S. Geological Survey		**Collaborator**	
Name		Name Randy P. Penn	
Signature	Date	Signature	Date
Title		Title Mayor	

City of Englewood, Colorado
2015 Proposed Budget Overview
General Fund





General Fund Sources	Amount	%
Revenue		
Sales & Use Taxes	$ 24,200,000	58%
Charges for Services	**3,318,899**	**8%**
Franchise Fees	3,017,550	7%
Property Tax	**2,900,000**	**7%**
Cultural & Recreation Program Fees	2,556,900	6%
Intergovernmental Revenue	**1,350,611**	**3%**
Fines & Forfeitures	1,396,844	3%
Specific Ownership & Cigarette Taxes	**451,000**	**1%**
Licenses & Permits	1,107,122	3%
Component Units Contribution	**858,882**	**2%**
Other	329,413	1%
Interest	**88,164**	**0%**
Total Revenue	41,575,385	
Other Financing Sources	**294,326**	**1%**
Total Sources of Funds	**$ 41,869,711**	100%

General Fund Uses	Amount	%
Expenditure		
Police Services	$ 12,157,100	28%
Fire Services	**8,917,066**	**20%**
Parks & Recreation Services	6,053,116	14%
Public Works	**5,790,091**	**13%**
Debt Service	1,863,314	4%
Finance & Administrative Services	**1,805,052**	**4%**
Community Development	1,288,781	3%
Information Technology	**1,425,389**	**3%**
Library Services	1,317,657	3%
Municipal Court	**1,085,494**	**2%**
City Attorney's Office	869,106	2%
City Manager's Office	**731,307**	**2%**
Human Resources	482,893	1%
Legislation-City Council & Boards	**355,852**	**1%**
Contingencies	200,000	0%
Total Expenditure	44,342,218	
Other Financing Uses	**-**	
Total Uses of Funds	**$ 44,342,218**	100%

Net Sources (Uses) of Funds	**$ (2,472,507)**
Estimated Fund Balance - January 1, 2015	10,416,386
Estimated Fund Balance Before Reserves	7,943,879
Reserves	**(4,003,099)**
Estimated Unassigned Fund Balance - December 31, 2015	$ 3,940,780

City of Englewood, Colorado **2015 Proposed Budget Overview**	January 1, 2015 Est Fund Balance	Sources of Funds	Uses of Funds	December 31, 2015 Est Fund Balance
GOVERNMENTAL FUND TYPES				
General Fund *is the operating fund of the City. It is used to account for all financial resources except for those required to be accounted in another fund.*				
General Fund	**10,416,386**	**41,869,711**	**44,342,218**	**7,943,879**
Special Revenue Funds *account for the proceeds of specific revenue sources that are legally restricted to expenditure for specified purposes.*				
Conservation Trust	88,094	310,000	375,000	23,094
Community Development	**-**	**360,000**	**360,000**	**-**
Donor's	350,233	88,540	283,000	155,773
Malley Center Trust	**188,088**	**7,000**	**75,000**	**120,088**
Parks and Recreation Trust	457,711	16,300	365,000	109,011
Open Space	**63,177**	**665,000**	**663,000**	**65,177**
Neighborhood Stabilization Program	-	-	-	-
Debt Service Fund *accounts for the accumulation and payment of long-term debt principal and interest other than long-term debt accounted for in enterprise funds.*				
General Obligation Bond Fund	**46,876**	**1,107,000**	**1,110,313**	**43,563**
Capital Project Funds *account for financial resources to be used for the acquisition and/or construction of major capital facilities (other than those financed by proprietary funds or special revenue funds).*				
Public Improvement	171,857	3,109,000	3,244,326	36,531
Capital Projects	**23,018**	**703,000**	**704,602**	**21,416**
PROPRIETARY FUND TYPES				
Enterprise Funds *account for operations financed and operated in a manner similar to private business enterprises.*				
Water	9,121,504	8,519,956	9,808,593	7,832,867
Sewer	**1,639,312**	**16,207,602**	**16,927,366**	**919,548**
Storm Drainage	1,030,219	329,013	340,614	1,018,618
Golf Course	**448,750**	**1,968,498**	**2,230,778**	**186,470**
Concrete Utility	329,851	884,200	880,493	333,558
Housing Rehabilitation	**1,570,415**	**1,000,000**	**1,000,000**	**1,570,415**
Internal Service Funds *account for the financing of goods or services provided by one department or agency to other departments or agencies of the government, and to other governmental units, on a cost reimbursement basis.*				
Central Services	67,141	316,900	341,307	42,734
ServiCenter	**1,171,256**	**2,581,233**	**3,389,622**	**362,867**
Capital Equipment Replacement	1,575,032	998,000	1,841,449	731,583
Risk Management	**26,288**	**1,535,568**	**1,531,899**	**29,957**
Employee Benefits Fund	42,335	6,553,501	6,553,714	42,122
All Funds Total	28,827,543	89,130,022	96,368,294	21,589,271

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
September 15, 2014	11 c i	Resolution for a supplemental appropriation of funds for the purchase of Police Department radios

Initiated By:	Staff Source:
Finance and Administrative Services Department	Frank Gryglewicz, Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has discussed Police Department operations/communications on numerous occasions; the most recent discussion was at the July 28, 2014 Study Session. Commander Tim Englert discussed police console radio replacements and the 911 Authority Agreement (to reimburse the majority of the purchase price)

This action supports the outcome "A safe, clean, healthy and attractive City" by providing police officers with state-of-the-art, quality communications equipment.

RECOMMENDED ACTION

Staff recommends City Council approve a supplement appropriation as follows:

SOURCES AND USES OF FUNDS:

GENERAL FUND:

SOURCE OF FUNDS:

Fund Balance	$350,000
Police Department - Operating Machines and Equipment	$5,922
Total	$355,922

USE OF FUNDS:

Police Radio Console Replacement	$355,922

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Arapahoe County E911 Authority Board approved partial funding of radio consoles for the seven Public Safety Answering Points (PSAPs) in Arapahoe County. The Board authorized $50,000 per position in the PSAPs. The Englewood Dispatch Center has four positions, equaling $200,000. The Authority also provides each PSAP with an annual Agency Operating Fund (AOF) to fund PSAP needs. The City receives $100,000 allotment per year; which can be carried over year-to-year. Englewood has an AOF balance of $150,000. The total of the AOF and PSAP funds is $350,000.

The proposal from Motorola for the replacement of the City's console radios is $355,922. The Motorola consoles are compatible with the State Digital Trunked Radio System and associated software. This compatibility supports a sole source purchase from Motorola.

Replacing the consoles is required per Federal Communication Commission (FCC) mandates and Motorola ending support of the Department's current consoles.

The Arapahoe County E911 Agreement requires the City of Englewood make the "upfront" purchase and request reimbursement after the Motorola contract is signed. The City is responsible for amounts exceeding $350,000.

FINANCIAL IMPACT

The Unassigned Fund Balance in the General Fund will show a *temporary* reduction of $350,000 as the Arapahoe County E911 Authority will reimburse the City $350,000. The remaining $5,922 will be absorbed by the 2014 Police Department Budget.

LIST OF ATTACHMENTS

Proposed Resolution

RESOLUTION NO. _____
SERIES OF 2014

A RESOLUTION APPROPRIATING FUNDS FOR THE PURCHASE OF POLICE DEPARTMENT RADIOS.

WHEREAS, the City of Englewood is required by City Charter to ensure expenditures do not exceed legally adopted appropriations; and

WHEREAS, the 2014 Budget was submitted and approved by the Englewood City Council on October 21, 2013; and

WHEREAS, Arapahoe County E911 Authority Board approved partial funding of radio consoles for the seven Public Safety Answering Points (PSAPs) in Arapahoe County; and

WHEREAS, Englewood Dispatch Center has four positions with the Arapahoe County E911 Authority Board funding $50,000 per position which equals $200,000 funded; and

WHEREAS, the Authority also provides each Public Safety Answering Points with an annual Agency Operating Fund (AOF) with Englewood receiving $100,000 allotment per year; and

WHEREAS, Motorola proposal for the replacement of the City's console radios is $355,922, and the Motorola consoles are compatible with the State Digital Trunked Radio System and associated software; and

WHEREAS, amounts spent over $350,000 are the responsibility of the City; and

WHEREAS, replacing the consoles is required per Federal Communication Commission (FCC) mandates and Motorola ending support of the Department's current consoles; and

WHEREAS, the Arapahoe County E911 Agreement requires the City of Englewood make the "upfront" purchase and request reimbursement after the Motorola contract is signed; and

WHEREAS, the passage of this Resolution appropriates the funds for the purchase of the Police Department Radios.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The Budget for the General Fund of the City of Englewood, Colorado, is hereby amended for the year 2014 as follows:

GENERAL FUND:

SOURCE OF FUNDS:	
Fund Balance	$350,000
Police Department Operating Machines and Equipment	$ 5,922
Total	$355,922
USE OF FUNDS:	
Police Radio Console Replacement	$355,922

Section 2. The City Manager and the Director of Finance and Administrative Services are hereby authorized to make the above changes to the 2014 Budget for the City of Englewood.

ADOPTED AND APPROVED this 15th day of September, 2014.

ATTEST:

_____
Randy P. Penn, Mayor

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2014.

_____
Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
September 15, 2014	11 c ii	Police/Fire Dispatch console radio replacement contract with Motorola

Initiated By:	Staff Source:
Police Department	Commander Tim Englert

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

During the July 28, 2014 Study Session City Council was presented with information regarding the replacement of the Police/Fire Dispatch Center console radios by taking advantage of funding available through the Arapahoe County E911 Authority. The contract with Motorola has been reviewed and approved by the City Attorney's Office.

This action supports the outcome of "A safe, clean, healthy and attractive City" by providing police officers and firefighters with state-of-the-art, quality communications equipment.

RECOMMENDED ACTION

The Police Department is recommending that City Council approve, by Motion, authorizing the contract with Motorola for the replacement of the console radios, which will be reimbursed by the Arapahoe E911 Authority.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Arapahoe County E911 Authority Board approved partial funding of radio consoles for the seven Public Safety Answering Points (PSAPs) in Arapahoe County. The Board authorized $50,000 per position in the PSAPs. The Englewood Dispatch Center has four positions, equaling $200,000. The Authority also provides each PSAP with an annual Agency Operating Fund (AOF) to fund PSAP needs. Englewood has an AOF balance of $150,000. The total of the AOF and the Board approved funds is $350,000.

The proposal from Motorola for the replacement of the City's console radios is $355,922. The Motorola consoles are compatible with the State Digital Trunked Radio System (DTRS) and associated software. All seven PSAPs in Arapahoe County use Motorola equipment. This compatibility supports a sole source purchase from Motorola.

Replacing the consoles is required per Federal Communications Commission (FCC) mandates, future software updates to the DTRS system, and the current equipment reaching end of life and no longer being supported by Motorola.

The Arapahoe County E911 agreement requires the City of Englewood make the "upfront" purchase and request reimbursement after the contract is signed and equipment is installed. The City is responsible for any costs exceeding $350,000. The remaining $5,922 will be taken from the 2014 Police budget.

LIST OF ATTACHMENTS

Memorandum from the City Attorney dated August 14, 2014
Motorola Communications System Agreement

MEMORANDUM

TO: Tim Englert, EPD
John Collins, Chief of Police
Jeff Sanchez, Deputy Chief of Police

FROM: Nancy Reid, Deputy City Attorney

DATE: August 14, 2014

REGARDING: Motorola proposed communications system agreement with Motorola Solutions, Inc. – 2nd Review.

The majority of my prior concerns pertaining to this agreement have been fixed. The only remaining items are to insure the exhibits are all there before the City signs this agreement.

- There are still only 2 exhibits attached and make sure the blanks in all the exhibits and the amount of the agreement are all filled in.

With that this agreement is legally acceptable.

Attachment

NNR/nf

Communications System Agreement

Motorola Solutions, Inc. ("Motorola") and City of Englewood, a Colorado Municipal Corporation ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the System, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 EXHIBITS

The exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the exhibits and any inconsistency between Exhibits A through E will be resolved in their listed order.

Exhibit A Motorola "Software License Agreement"
Exhibit B "Payment Schedule"
Exhibit C "Technical and Implementation Documents"
C-1 "System Description" which is Section 1 of Motorola's proposal dated 5-14-2014
C-2 "Equipment List" which is Section 6 of Motorola's proposal dated 5-14-2014
C-3 "Statement of Work" which is Section 3 of Motorola's proposal dated 5-14-2014
C-4 "Acceptance Test Plan" or "ATP" which is Section 4 of Motorola's proposal dated 5-14-2014
Exhibit D Service Statement(s) of Work and "Service Terms and Conditions" (if applicable)
Exhibit E "System Acceptance Certificate"

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

2.1. "Acceptance Tests" means those tests described in the Acceptance Test Plan.

2.2. "Administrative User Credentials" means an account that has total access over the operating system, files, end user accounts and passwords at either the System level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User.

2.3. "Beneficial Use" means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

2.4. "Confidential Information" means all information consistent with the fulfillment of this agreement that is (i) disclosed under this agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this agreement are considered Confidential Information. Confidential information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

2.5. "Contract Price" means the price for the System, excluding applicable sales or similar taxes and freight charges.

2.6. "Effective Date" means that date upon which the last Party executes this Agreement.

2.7. "Equipment" means the equipment that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

2.8. "Force Majeure" means an event, circumstance, or act of a third party that is beyond a Party's reasonable control (e.g., an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, and riots).

2.9. "Infringement Claim" means a third party claim alleging that the Equipment manufactured by Motorola or the Motorola Software directly infringes a United States patent or copyright.

2.10. "Motorola Software" means Software that Motorola or its affiliated company owns.

2.11. "Non-Motorola Software" means Software that another party owns.

2.12. "Open Source Software" (also called "freeware" or "shareware") means software with either freely obtainable source code, license for modification, or permission for free distribution.

2.13. "Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

2.14. "Software" means the Motorola Software and Non-Motorola Software, in object code format that is furnished with the System or Equipment.

2.15. "Specifications" means the functionality and performance requirements that are described in the Technical and Implementation Documents.

2.16. "Subsystem" means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

2.17. "System" means the Equipment, Software, and incidental hardware and materials that are combined together into an integrated system; the System is described in the Technical and Implementation Documents.

2.18. "System Acceptance" means the Acceptance Tests have been successfully completed.

2.19. "Warranty Period" means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. SCOPE OF WORK. Motorola will provide, install and test the System, and perform its other contractual responsibilities, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. CHANGE ORDERS. Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price, Performance Schedule, or both, and will reflect the adjustment in a change order. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. TERM. Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, whichever occurs last.

3.4. ADDITIONAL EQUIPMENT OR SOFTWARE. For three (3) years after the Effective Date, Customer may order additional Equipment or Software if it is then available. Each order must refer to this Agreement and must specify the pricing and delivery terms. Notwithstanding any additional or contrary

terms in the order, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Title to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within twenty (20) days after the invoice date. Risk of loss will pass to Customer upon delivery of the Equipment to the Customer. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through Motorola Online ("MOL"), and this Agreement will be the "Underlying Agreement" for those MOL transactions rather than the MOL On-Line Terms and Conditions of Sale. MOL registration and other information may be found at https://businessonline.motorola.com and the MOL telephone number is (800) 814-0601.

3.5. MAINTENANCE SERVICE. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance services for the Equipment and support for the Motorola Software pursuant to the Statement of Work set forth in Exhibit D. Those services and support are included in the Contract Price. If Customer wishes to purchase additional maintenance and support services for the Equipment during the Warranty Period, or any maintenance and support services for the Equipment either during the Warranty Period or after the Warranty Period, the description of and pricing for the services will be set forth in a separate document. If Customer wishes to purchase extended support for the Motorola Software after the Warranty Period, it may do so by ordering software subscription services. Unless otherwise agreed by the parties in writing, the terms and conditions applicable to those maintenance, support or software subscription services will be Motorola's standard Service Terms and Conditions, together with the appropriate statements of work.

3.6. MOTOROLA SOFTWARE. Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.7. NON-MOTOROLA SOFTWARE. Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software. All Open Source Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not the Software License Agreement. Upon request by Customer, Motorola will use commercially reasonable efforts to determine whether any Open Source Software will be provided under this Agreement; and if so, identify the Open Source Software and provide to Customer a copy of the applicable standard license (or specify where that license may be found); and provide to Customer a copy of the Open Source Software source code if it is publicly available without charge (although a distribution fee or a charge for related services may be applicable).

3.8. SUBSTITUTIONS. At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

Section 4 PERFORMANCE SCHEDULE

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

Section 5 CONTRACT PRICE, PAYMENT AND INVOICING

5.1. CONTRACT PRICE. The Contract Price in U.S. dollars is $355,922. If applicable, a pricing summary is included with the Payment Schedule. Motorola has priced the services, Software, and

Equipment as an integrated system. A reduction in Software or Equipment quantities, or services, may affect the overall Contract Price, including discounts if applicable.

5.2. INVOICING AND PAYMENT. Motorola will submit invoices to Customer according to the Payment Schedule. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within twenty (20) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola Solutions, Inc. is 36-1115800.

5.3. FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Risk of loss will pass to Customer upon delivery of the Equipment to the Customer. Motorola will pack and ship all Equipment in accordance with good commercial practices.

5.4. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:
3615 Elati St
Englewood, CO 80110

The address which is the ultimate destination where the Equipment will be delivered to Customer is:
3615 Elati St
Englewood, CO 80110

The Equipment will be shipped to the Customer at the following address (insert if this information is known):
3901 West Service Road
Evans, CO 80620

Customer may change this information by giving written notice to Motorola.

Section 6 SITES AND SITE CONDITIONS

6.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the work sites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

6.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

6.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and specifications as necessary. If change in sites or adjustment to the installation

plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

Section 7 TRAINING

Any training to be provided by Motorola to Customer will be described in the Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

Section 8 SYSTEM ACCEPTANCE

8.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

8.2. SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

8.3. BENEFICIAL USE. Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

8.4 FINAL PROJECT ACCEPTANCE. Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

Section 9 REPRESENTATIONS AND WARRANTIES

9.1. SYSTEM FUNCTIONALITY. Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

9.2. EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes within Customer's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

9.3. MOTOROLA SOFTWARE WARRANTY. Unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Motorola Software in accordance with the terms of the Software License Agreement and the provisions of this Section 9 that are applicable to the Motorola Software. If System Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes within Customer's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERCEDES THIS SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

9.4. EXCLUSIONS TO EQUIPMENT AND MOTOROLA SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Motorola Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

9.5. WARRANTY CLAIMS. To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. That action will be the full extent of Motorola's liability for the warranty claim. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

9.6. ORIGINAL END USER IS COVERED. These express limited warranties are extended by Motorola to the original user purchasing the System for commercial, industrial, or governmental use only, and are not assignable or transferable.

9.7. DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 10 DELAYS

10.1. FORCE MAJEURE. Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule for a time period that is reasonable under the circumstances.

10.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER. If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment Schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel;

suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

Section 11 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

11.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State in which the System is installed.

11.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties may proceed to litigation.

11.3. LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

11.4. CONFIDENTIALITY. All communications pursuant to subsections 11.2 and 11.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 12 DEFAULT AND TERMINATION

12.1 DEFAULT BY A PARTY. If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.

12.2. FAILURE TO CURE. If a defaulting Party fails to cure the default as provided above in Section 12.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges.

Section 13 INDEMNIFICATION

13.1. GENERAL INDEMNITY BY MOTOROLA. Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties

under this Agreement, if Customer gives Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

13.2. [reserved]

13.3. PATENT AND COPYRIGHT INFRINGEMENT.

13.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

13.3.2. If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

13.3.3. Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

13.3.4. This Section 13 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 13 are subject to and limited by the restrictions set forth in Section 14.

Section 14 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL

DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 15 CONFIDENTIALITY AND PROPRIETARY RIGHTS

15.1. CONFIDENTIAL INFORMATION.

15.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this agreement and for a period of three (3) years from the expiration or termination of this agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this agreement; (iii) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this agreement; and (vi) only use the Confidential Information as needed to fulfill this agreement.

15.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this agreement. Customer is subject to the Colorado Open Records Act and disclosure by the Customer maybe required under the provisions of the Colorado Open records Act.

15.1.3. All Confidential Information remains the property of the discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

15.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS. Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell

or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

Section 16 GENERAL

16.1. TAXES. The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within twenty (20) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

16.2. ASSIGNABILITY AND SUBCONTRACTING. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

16.3 WAIVER. Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

16.4. SEVERABILITY. If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

16.5. INDEPENDENT CONTRACTORS. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

16.6. HEADINGS AND SECTION REFERENCES. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

16.7. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase

order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

16.8. NOTICES. Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt:

Motorola Solutions, Inc.	Customer
Attn: Law Department	Attn: Tim Englert
1303 E. Algonquin Road	Englewood Police Department
IL01-8th fl	3615 Elati St
Schaumburg, IL 60196	Englewood, CO 80110
fax: 847-576-0721	Fax: _____

16.9. COMPLIANCE WITH APPLICABLE LAWS. Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

16.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

16.11. ADMINISTRATOR LEVEL ACCOUNT ACCESS. Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant Administrative User Credentials to those personnel with the training or experience to correctly use the access. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support. Customer understands that changes made as the Administrative User can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made by an Administrative User may impact Motorola's ability to perform its obligations under the Agreement or its Maintenance and Support Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

16.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.6 (Motorola Software); Section 3.7 (Non-Motorola Software); if any payment obligations exist, Sections 5.1 and 5.2 (Contract Price and Invoicing and Payment); Subsection 9.7 (Disclaimer of Implied Warranties); Section 11 (Disputes); Section 14 (Limitation of Liability); and Section 15 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 16.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.	Customer
By:	By:
Name: Larry Mabry	Name:
Title: MSSSI Vice President & Director Sales	Title:
Date: 9/9/14	Date:

Exhibit A

SOFTWARE LICENSE AGREEMENT

This Exhibit A Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and Englewood Police Department ("Licensee").

For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the Software and Documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source

Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4. When using Motorola's Radio Service Software ("RSS"), Licensee must purchase a separate license for each location at which Licensee uses RSS. Licensee's use of RSS at a licensed location does not entitle Licensee to use or access RSS remotely. Licensee may make one copy of RSS for each licensed location. Licensee shall provide Motorola with a list of all locations at which Licensee uses or intends to use RSS upon Motorola's request.

4.5. Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the

Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. The commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than RSS and Motorola's

FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 UNITED STATES GOVERNMENT LICENSING PROVISIONS

This Section applies if Licensee is the United States Government or a United States Government agency. Licensee's use, duplication or disclosure of the Software and Documentation under Motorola's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 (JUNE 1987), if applicable, unless they are being provided to the Department of Defense. If the Software and Documentation are being provided to the Department of Defense, Licensee's use, duplication, or disclosure of the Software and Documentation is subject to the restricted rights set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (OCT 1988), if applicable. The Software and Documentation may or may not include a Restricted Rights notice, or other notice referring to this Agreement. The provisions of this Agreement will continue to apply, but only to the extent that they are consistent with the rights provided to the Licensee under the provisions of the FAR or DFARS mentioned above, as applicable to the particular procuring agency and procurement transaction.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. COPYRIGHT NOTICES. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. COMPLIANCE WITH LAWS. Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3. ASSIGNMENTS AND SUBCONTRACTING. Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.4. GOVERNING LAW. This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, or the internal substantive laws of the State of Illinois if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.5. THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.6. SURVIVAL. Sections 4, 5, 6.3, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.7. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.8 SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

Exhibit B

Payment Schedule

Except for a payment that is due on the Effective Date, Customer will make payments to Motorola in accordance with the contract payment terms. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following:

25% of the Contract Price upon Contract Execution (Approx. Sept. 16)

50% of the Contract Price upon Equipment Shipment (Approx. Sept 30)

15% of the Contract Price upon Installation (Approx. Dec 1)

5% of the Contract Price upon System Acceptance or start of Beneficial Use (Approx. Dec 8)

5% of the Contract Price upon Final Acceptance (Approx. Dec 15)

Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.

EXHIBIT C

See Motorola Proposal Dated May 14 2014.

EXHIBIT D

Not applicable to this Contract.

Exhibit E

System Acceptance Certificate

Customer Name: Englewood Police Department

Project Name: Englewood MCC7500 and MCC7100

This System Acceptance Certificate memorializes the occurrence of System Acceptance. Motorola and Customer acknowledge that:

1. The Acceptance Tests set forth in the Acceptance Test Plan have been successfully completed.

2. The System is accepted.

Customer Representative:	Motorola Representative:
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

FINAL PROJECT ACCEPTANCE:

Motorola has provided and Customer has received all deliverables, and Motorola has performed all other work required for Final Project Acceptance.

Customer Representative:	Motorola Representative:
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
September 15, 2014	11 c iii	Professional Services Agreement for the Englewood Comprehensive Plan Update: Logan Simpson Design
Initiated By:		**Staff Source:**
Community Development		John Voboril, Long Range Planner II

PREVIOUS COUNCIL ACTION

At the beginning of 2012, City Council arrived at a consensus to step up the City's economic development efforts. A list of top priority City goals was established. One of these goals was an update of the City's 2003 Comprehensive Plan. Council members favored updating the plan to better reflect the City's economic circumstances after the severe Great Recession of 2008 so the plan could continue to serve as the foundational vision for moving the community forward. Three City Council members were appointed to a Comprehensive Plan Review Committee to identify and outline desired changes to the plan text. The committee completed the review of the current plan document and submitted the edited version to the full Council and Community Development staff in February of 2013.

Community Development presented the edited version of the plan document to the Englewood Planning and Zoning Commission for comment and direction at the April 2, 2013 P&Z study session. After reviewing Council's proposed changes, the Commission concluded that the City would be better served by undergoing an extensive community visioning process that would lead to a new Comprehensive Plan that would feature specific strategies and implementation action items. At the June 17, 2013 City Council study session, Commissioners made a recommendation to City Council to begin planning for a major Comprehensive Plan community engagement and plan development process, which would include budgeting significant consultant funds essential to the development of the next evolution of the Comprehensive Plan document. City Council accepted the Commissioner's recommendation and directed Community Development staff to develop a recommended project timeline and budget. Community Development presented a project timeline and a consultant budget of $150,000 at the July 8, 2013 Council study session, which was agreed to by Council. The requested budget of $150,000 was allocated to the Community Development budget – ½ in 2014 and ½ in 2015.

The Comprehensive Plan Update was revisited by City Council at the January 27, 2014 Council study session. Council reconfirmed there was a consensus to move forward with a Comprehensive Plan Update process. Community Development staff discussed ideas for how the process and final document would be structured, including the addition of specific strategies and implementation action items for moving the community forward. Council members asked staff to develop a consultant scope of work, which was presented at the February 24, 2014 study session.

RECOMMENDED ACTION

Community Development is requesting Council approve, by motion, a contract for professional services for the Englewood Comprehensive Plan update. Staff recommends awarding the contract to Logan Simpson Design, the firm chosen through a competitive Request for Proposal (RFP) process.

BACKGROUND AND ANALYSIS

Community Development released an RFP for the Englewood Comprehensive Plan Update on June 19, 2014. A total of three consulting teams submitted proposals for the project. Each proposal was rated by Community Development staff in terms of project methodology, firm and staff profiles, capacity to assume risk, references, and fee schedule. The three consulting teams were interviewed by Community Development staff members.

Logan Simpson Design and Clarion Associates were the top scoring consulting teams in the RFP review phase. The two proposals offered similar amounts of consultant labor hours. Both teams did well in the staff interviews, as well. A final decision to select Logan Simpson Design was made based on Logan Simpson's sub-consultant partner, Progressive Urban Management Associates (PUMA). PUMA is a highly regarded consulting firm specializing in economic and business development strategies for downtown and business improvement districts throughout the United States. PUMA also is very familiar with Englewood, having put together the business improvement district plan for the former South Broadway BID. Community Development staff felt that PUMA's expertise and knowledge would strongly benefit the development of economic development strategies.

FINANCIAL IMPACT

City Council has allocated a budget of $150,000 in the Community Development budget for the completion of this project.

LIST OF ATTACHMENTS

Professional Services Agreement Englewood Comprehensive Plan Update - Logan Simpson Design

PROFESSIONAL SERVICES AGREEMENT

ENGLEWOOD COMPREHENSIVE PLAN UPDATE

This Professional Services Agreement (the "Agreement") is made as of this _____ day of _____, 20__, (the "Effective Date") by and between Logan Simpson Design, an Arizona-based corporation ("Consultant"), and The City of Englewood, Colorado, a municipal corporation organized under the laws of the State of Colorado ("City").

City desires that Consultant, from time to time, provide certain consulting services, systems integration services, data conversion services, training services, and/or related services as described herein, and Consultant desires to perform such services on behalf of City on the terms and conditions set forth herein.

In consideration of the foregoing and the terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. The terms set forth below shall be defined as follows:

(a) "Intellectual Property Rights" shall mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (1) rights associate with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (2) trademark and trade name rights and similar rights, (3) trade secret rights, (4) patents, designs, algorithms and other industrial property rights, (5) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (6) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

(b) "Work Product" shall mean all patents, patent applications, inventions, designs, mask works, processes, methodologies, copyrights and copyrightable works, trade secrets including confidential information, data, designs, manuals, training materials and documentation, formulas, knowledge of manufacturing processes, methods, prices, financial and accounting data, products and product specifications and all other Intellectual Property Rights created, developed or prepared, documented and/or delivered by Consultant, pursuant to the provision of the Services.

2. Statements of Work. During the term hereof and subject to the terms and conditions contained herein, Consultant agrees to provide, on an as requested basis, the consulting services, systems integration services, data conversion services, training services, and related services (the "Services") as further described in Schedule A (the "Statement of Work") for City, and in such additional Statements of Work as may be executed by each of the parties hereto from time to time pursuant to this Agreement. Each Statement of Work shall specify the scope of work, specifications, basis of compensation and payment schedule, estimated length of time required to complete each Statement of

Work, including the estimated start/finish dates, and other relevant information and shall incorporate all terms and conditions contained in this Agreement

3. Performance of Services.

(a) Performance. Consultant shall perform the Services necessary to complete all projects outlined in a Statement of Work in a timely and professional manner consistent with the specifications, if any, set forth in the Statement of Work, and in accordance with industry standards. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents in completing the projects outlined in a Statement of Work.

(b) Delays. Consultant agrees to notify City promptly of any factor, occurrence, or event coming to its attention that may affect Consultant's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of the projects contemplated by this Agreement or any Statement of Work. Such notice shall be given in the event of any loss or reassignment of key employees, threat of strike, or major equipment failure. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

(c) Discrepancies. If anything necessary for the clear understanding of the Services has been omitted from the Agreement specifications or it appears that various instructions are in conflict, Vendor shall secure written instructions from City's project director before proceeding with the performance of the Services affected by such omissions or discrepancies.

4. Invoices and Payment. Unless otherwise provided in a Statement of Work, City shall pay the amounts agreed to in a Statement of Work within thirty (30) days following the acceptance by City of the work called for in a Statement of Work by City. Acceptance procedures shall be outlined in the Statement of Work. If City disputes all or any portion of an invoice for charges, then City shall pay the undisputed portion of the invoice by the due date and shall provide the following notification with respect to the disputed portion of the invoice. City shall notify Consultant as soon as possible of the specific amount disputed and shall provide reasonable detail as to the basis for the dispute. The parties shall then attempt to resolve the disputed portion of such invoice as soon as possible. Upon resolution of the disputed portion, City shall pay to Consultant the resolved amount.

5. Taxes. City is not subject to taxation. No federal or other taxes (excise, luxury, transportation, sales, etc.) shall be included in quoted prices. City shall not be obligated to pay or reimburse Consultant for any taxes attributable to the sale of any Services which are imposed on or measured by net or gross income, capital, net worth, franchise, privilege, any other taxes, or assessments, nor any of the foregoing imposed on or payable by Consultant. Upon written notification by City and subsequent verification by Consultant, Consultant shall reimburse or credit, as applicable, City in a timely manner, for any and all taxes erroneously paid by City. City shall provide Consultant with, and Consultant shall accept in good faith, resale, direct pay, or other exemption certificates, as applicable.

6. Out of Pocket Expenses. Consultant shall be reimbursed only for expenses which are expressly provided for in a Statement of Work or which have been approved in advance in writing by City, provided Consultant has furnished such documentation for authorized expenses as City may reasonably request.

7. Audits. Consultant shall provide such employees and independent auditors and inspectors as City may designate with reasonable access to all sites from which Services are performed for the purposes of performing audits or inspections of Consultant's operations and compliance with this Agreement. Consultant shall provide such auditors and inspectors any reasonable assistance that they may require. Such audits shall be conducted in such a way so that the Services or services to any other customer of Consultant are not impacted adversely.

8. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall continue unless this Agreement is terminated as provided in this Section 8.

(a) **Convenience.** City may, without cause and without penalty, terminate the provision of Services under any or all Statements of Work upon thirty (30) days prior written notice. Upon such termination, City shall, upon receipt of an invoice from Consultant, pay Consultant for Services actually rendered prior to the effective date of such termination. Charges will be based on time expended for all incomplete tasks as listed in the applicable Statement of Work, and all completed tasks will be charged as indicated in the applicable Statement of Work.

(b) **No Outstanding Statements of Work.** Either party may terminate this Agreement by providing the other party with at least thirty (30) days prior written notice of termination if there are no outstanding Statements of Work.

(c) **Material Breach.** If either party materially defaults in the performance of any term of a Statement of Work or this Agreement with respect to a specific Statement of Work (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting party may terminate this Agreement or any or all outstanding Statements of Work by providing ten (10) days prior written notice of termination to the defaulting party.

(d) **Bankruptcy or Insolvency.** Either party may terminate this Agreement effective upon written notice stating its intention to terminate in the event the other party: (1) makes a general assignment of all or substantially all of its assets for the benefit of its creditors; (2) applies for, consents to, or acquiesces in the appointment of a receiver, trustee, custodian, or liquidator for its business or all or substantially all of its assets; (3) files, or consents to or acquiesces in, a petition seeking relief or reorganization under any bankruptcy or insolvency laws; or (4) files a petition seeking relief or reorganization under any bankruptcy or insolvency laws is filed against that other party and is not dismissed within sixty (60) days after it was filed.

(e) **TABOR.** The parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement to the contrary, all payment obligations of City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of City's current fiscal period ending upon the next succeeding December 31. Financial obligations of City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated.

(f) **Return of Property.** Upon termination of this Agreement, both parties agree to return to the other all property (including any Confidential Information, as defined in Section 11) of the other party that it may have in its possession or control.

9. City Obligations. City will provide timely access to City personnel, systems and information required for Consultant to perform its obligations hereunder. City shall provide to Consultant's employees performing its obligations hereunder at City's premises, without charge, a reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, secretarial and other necessary equipment, supplies, and services. With respect to all third party hardware or software operated by or on behalf of City, City shall, at no expense to Consultant, obtain all consents, licenses and sublicenses necessary

for Consultant to perform under the Statements of Work and shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

10. Staff. Consultant is an independent consultant and neither Consultant nor Consultant's staff is, or shall be deemed to be employed by City. City is hereby contracting with Consultant for the Services described in a Statement of Work and Consultant reserves the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by Consultant or Consultant's staff, and City shall not be required to hire, supervise or pay any assistants to help Consultant perform the Services under this Agreement. Except to the extent that Consultant's work must be performed on or with City's computers or City's existing software, all materials used in providing the Services shall be provided by Consultant.

11. Confidential Information.

(a) Obligations. Each party hereto may receive from the other party information which relates to the other party's business, research, development, trade secrets or business affairs ("Confidential Information"). Subject to the provisions and exceptions set forth in the Colorado Open Records Act, CRS Section 24-72-101 et. seq., each party shall protect all Confidential Information of the other party with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Without limiting the generality of the foregoing, each party hereto agrees not to disclose or permit any other person or entity access to the other party's Confidential Information except such disclosure or access shall be permitted to an employee, agent, representative or independent consultant of such party requiring access to the same in order to perform his or her employment or services. Each party shall insure that their employees, agents, representatives, and independent consultants are advised of the confidential nature of the Confidential Information and are precluded from taking any action prohibited under this Section 11. Further, each party agrees not to alter or remove any identification, copyright or other proprietary rights notice which indicates the ownership of any part of such Confidential Information by the other party. A party hereto shall undertake to immediately notify the other party in writing of all circumstances surrounding any possession, use or knowledge of Confidential Information at any location or by any person or entity other than those authorized by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall restrict either party with respect to information or data identical or similar to that contained in the Confidential Information of the other party but which (1) that party rightfully possessed before it received such information from the other as evidenced by written documentation; (2) subsequently becomes publicly available through no fault of that party; (3) is subsequently furnished rightfully to that party by a third party without restrictions on use or disclosure; or (4) is required to be disclosed by law, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure.

(b) Know-How. For the avoidance of doubt neither City nor Consultant shall be prevented from making use of know-how and principles learned or experience gained of a non-proprietary and non-confidential nature.

(c) Remedies. Each of the parties hereto agree that if any of them, their officers, employees or anyone obtaining access to the Confidential Information of the other party by, through or under them, breaches any provision of this Section 11, the non-breaching party shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations and benefits which the breaching party, its officers or employees directly or indirectly realize or may realize as a result of or growing out of, or in connection with any such breach. In addition to, and not in limitation of the foregoing, in the event of any breach of this Section 11, the parties agree that the non-breaching party will suffer irreparable harm and that the total

amount of monetary damages for any such injury to the non-breaching party arising from a violation of this Section 11 would be impossible to calculate and would therefore be an inadequate remedy at law. Accordingly, the parties agree that the non-breaching party shall be entitled to temporary and permanent injunctive relief against the breaching party, its officers or employees and such other rights and remedies to which the non-breaching party may be entitled to at law, in equity or under this Agreement for any violation of this Section 11. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.

12. Project Managers. Each party shall designate one of its employees to be its Project Manager under each Statement of Work, who shall act for that party on all matters under the Statement of Work. Each party shall notify the other in writing of any replacement of a Project Manager. The Project Managers for each Statement of Work shall meet as often as either one requests to review the status of the Statement of Work.

13. Warranties.

(a) Authority. Consultant represents and warrants that: (1) Consultant has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (2) the execution of this Agreement by Consultant, and the performance by Consultant of its obligations and duties hereunder, do not and will not violate any agreement to which Consultant is a party or by which it is otherwise bound under any applicable law, rule or regulation; (3) when executed and delivered by Consultant, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (4) Consultant acknowledges that City makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement

(b) Service Warranty. Consultant warrants that its employees and consultants shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

(c) Personnel. Unless a specific number of employees is set forth in the Statement of Work, Consultant warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement or as set forth in the Statement of Work.. During the course of performance of Services, City may, for any or no reason, request replacement of an employee or a proposed employee. In such event, Consultant shall, within five (5) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. Consultant shall require employees providing Services at a City location to comply with applicable City security and safety regulations and policies.

(d) Compensation and Benefits. Consultant shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Consultant or to any employee for Consultant's failure to perform its compensation, benefit, or tax obligations. Consultant shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

14. Indemnification.

(a) Consultant Indemnification. Consultant shall indemnify, defend and hold harmless City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing (the "City Indemnitees") from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and

disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature, suffered or incurred by a City Indemnitee directly or indirectly arising from or related to: (1) any negligent or intentional act or omission by Consultant or its representatives in the performance of Consultant's obligations under this Agreement, or (2) any material breach in a representation, warranty, covenant or obligation of Consultant contained in this Agreement.

(b) Infringement. Consultant will indemnify, defend, and hold City harmless from all Indemnifiable Losses arising from any third party claims that any Work Product or methodology supplied by Consultant infringes or misappropriates any Intellectual Property rights of any third party; provided, however, that the foregoing indemnification obligation shall not apply to any alleged infringement or misappropriation based on: (1) use of the Work Product in combination with products or services not provided by Consultant to the extent that such infringement or misappropriation would have been avoided if such other products or services had not been used; (2) any modification or enhancement to the Work Product made by City or anyone other than Consultant or its sub-consultants; or (3) use of the Work Product other than as permitted under this Agreement.

(c) Indemnification Procedures. Notwith-standing anything else contained in this Agreement, no obligation to indemnify which is set forth in this Section 14 shall apply unless the party claiming indemnification notifies the other party as soon as practicable to avoid any prejudice in the claim, suit or proceeding of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge and gives the other party the opportunity to control the response thereto and the defense thereof; provided, however, that the party claiming indemnification shall have the right to participate in any legal proceedings to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at such party's cost and expense; provided further, however, that no settlement or compromise of an asserted third-party claim other than the payment/money may be made without the prior written consent of the party claiming indemnification.

(d) Immunity. City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to City, its officers, or its employees.

15. Insurance.

(a) Requirements. Consultant agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance during the term of this Agreement:

(1) The Consultant shall comply with the Workers' Compensation Act of Colorado and shall provide compensation insurance to protect the City from and against any and all Workers' Compensation claims arising from performance of the work under this contract. Workers' Compensation insurance must cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, as well as the Employers' Liability within the minimum statutory limits.

(2) Commercial General Liability Insurance and auto liability insurance (including contractual liability insurance) providing coverage for bodily injury and property damage with a combined single limit of not less than four million dollars ($4,000,000) per occurrence.

(3) Professional Liability/Errors and Omissions Insurance covering acts, errors and omissions arising out of Consultant's operations or Services in an amount not less than two million dollars ($2,000,000) per occurrence.

(4) Umbrella Insurance policy in an amount not less than five million dollars ($5,000,000) per occurrence.

(b) Approved Companies. All such insurance shall be procured with such insurance companies of good standing, permitted to do business in the country, state or territory where the Services are being performed.

(c) Certificates. Consultant shall provide City with certificates of insurance evidencing compliance with this Section 15 (including evidence of renewal of insurance) signed by authorized representatives of the respective carriers for each year that this Agreement is in effect. Certificates of insurance will list the City of Englewood as an additional insured. Each certificate of insurance shall provide that the issuing company shall not cancel, reduce, or otherwise materially change the insurance afforded under the above policies unless thirty (30) days' notice of such cancellation, reduction or material change has been provided to City.

16. Rights in Work Product.

(a) Generally. Except as specifically agreed to the contrary in any Statement of Work, all Intellectual Property Rights in and to the Work Product produced or provided by Consultant under any Statement of Work shall remain the property of Consultant. With respect to the Work Product, Consultant unconditionally and irrevocably grants to City during the term of such Intellectual Property Rights, a non-exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such Intellectual property Rights.

(b) Know-How. Notwithstanding anything to the contrary herein, each party and its respective personnel and consultants shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other party.

17. Relationship of Parties. Consultant is acting only as an independent consultant and does not undertake, by this Agreement, any Statement of Work or otherwise, to perform any obligation of City, whether regulatory or contractual, or to assume any responsibility for City's business or operations. Neither party shall act or represent itself, directly or by implication, as an agent of the other, except as expressly authorized in a Statement of Work.

18. Complete Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein.

19. Applicable Law. Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in the applicable Statement of Work. This Agreement shall be construed in accordance with the laws of the State of Colorado. Any action or proceeding brought to interpret or enforce the provisions of this Agreement shall be brought before the state or federal court situated in Arapahoe County, Colorado and each party hereto consents to jurisdiction and venue before such courts.

20. Scope of Agreement. If the scope of any provisions of this Agreement is too broad in any respect whatsoever to permit enforcement to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent to and agree that such scope may be judicially modified accordingly and that the whole of such provision of this Agreement shall not thereby fail, but that the scope of such provision shall be curtailed only to the extent necessary to conform to law.

21. Additional Work. After receipt of a Statement of Work, City, with Consultant's consent, may request Consultant to undertake

additional work with respect to such Statement of Work. In such event, City and Consultant shall execute an addendum to the Statement of Work specifying such additional work and the compensation to be paid to Consultant for such additional work.

22. Sub-consultants. Consultant may not subcontract any of the Services to be provided hereunder without the prior written consent of City. In the event of any permitted subcontracting, the agreement with such third party shall provide that, with respect to the subcontracted work, such sub-consultant shall be subject to all of the obligations of Consultant specified in this Agreement.

23. Notices. Any notice provided pursuant to this Agreement shall be in writing to the parties at the addresses set forth below and shall be deemed given (1) if by hand delivery, upon receipt thereof, (2) three (3) days after deposit in the United States mails, postage prepaid, certified mail, return receipt requested or (3) one (1) day after deposit with a nationally-recognized overnight courier, specifying overnight priority delivery. Either party may change its address for purposes of this Agreement at any time by giving written notice of such change to the other party hereto.

24. Assignment. This Agreement may not be assigned by Consultant without the prior written consent of City. Except for the prohibition of an assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

25. Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the parties hereto and shall not confer any rights upon any person or entity not a party to this Agreement.

26. Headings. The section headings in this Agreement are solely for convenience and shall not be considered in its interpretation. The recitals set forth on the first page of this Agreement are incorporated into the body of this Agreement. The exhibits referred to throughout this Agreement and any Statement of Work prepared in conformance with this Agreement are incorporated into this Agreement.

27. Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not effect in any way the full right to require such performance at any subsequent time; nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

28. Force Majeure. If performance by Consultant of any service or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communications failures, earthquakes, war, revolution, civil commotion, acts of public enemies, blockade, embargo or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any governmental or judicial authority or representative of any such government, or any other act whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of Consultant, then Consultant shall be excused from such performance to the extent of such prevention, restriction, delay or interference. If the period of such delay exceeds thirty (30) days, City may, without liability, terminate the affected Statement of Work(s) upon written notice to Consultant.

29. Time of Performance. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

30. Permits. Consultant shall at its own expense secure any and all licenses, permits or certificates that may be required by any federal, state or local statute, ordinance or regulation for the performance of the Services under the Agreement. Consultant shall also comply with the provisions of all Applicable Laws in performing the Services under the Agreement. At its own expense and at no cost to City, Consultant shall make any change,

alteration or modification that may be necessary to comply with any Applicable Laws that Consultant failed to comply with at the time of performance of the Services.

31. Media Releases. Except for any announcement intended solely for internal distribution by Consultant or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Consultant, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Consultant or its employees or agents relating to this Agreement or its subject matter, or including the name, trade mark, or symbol of City, shall be coordinated with and approved in writing by City prior to the release thereof. Consultant shall not represent directly or indirectly that any Services provided by Consultant to City has been approved or endorsed by City or include the name, trade mark, or symbol of City on a list of Consultant's customers without City's express written consent.

32. Nonexclusive Market and Purchase Rights. It is expressly understood and agreed that this Agreement does not grant to Consultant an exclusive right to provide to City any or all of the Services and shall not prevent City from acquiring from other suppliers services similar to the Services. Consultant agrees that acquisitions by City pursuant to this Agreement shall neither restrict the right of City to cease acquiring nor require City to continue any level of such acquisitions. Estimates or forecasts furnished by City to Consultant prior to or during the term of this Agreement shall not constitute commitments.

33. Survival. The provisions of Sections 5, 8(g), 10, 11, 13, 14, 16, 17, 19, 23, 25 and 31 shall survive any expiration or termination for any reason of this Agreement.

34. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:

(a) Employees, Consultants and Sub-consultants: Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Consultant shall not contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) Verification: Consultant will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services. Consultant is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

(c) Duty to Terminate a Subcontract: If Consultant obtains actual knowledge that a sub-consultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall;

(1) notify the sub-consultant and the City within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the sub-consultant if, within three days of receiving notice required pursuant to this paragraph the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

(d) Duty to Comply with State Investigation: Consultant shall comply with any reasonable request of the Colorado

Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5)

(e) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Consultant's breach of any section of this paragraph or provisions required pursuant to CRS 8-17.5-102. Consultant shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph 34.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their authorized officers as of the day and year first above written. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CITY OF ENGLEWOOD, COLORADO

By: _____
(Signature)

_____
(Print Name)

Title: _____

Date: _____

ATTEST:

_____
City Clerk

Logan Simpson Design
(Consultant Name)

123 N. College Ave, Suite 200
Address

Fort Collins, CO 80524
City, S

By: _____

John Foth
(Print Name)

Title: PRINCIPAL

Date: 9/3/2014

SCHEDULE A:

STATEMENT OF WORK AND FEE SCHEDULE

ENGLEWOOD COMPREHENSIVE PLAN UPDATE:

SCOPE OF WORK

The Englewood Comprehensive Plan Update offers an extraordinary platform for the City's Community Development Department, key staff across City departments and agencies, Planning Commission, City Council, civic leaders, stakeholders, and residents to join in a planning dialogue focused on enhancing the long-term vitality of the City of Englewood. Englewood has grown exponentially, and the broader community and economic dynamics have changed since the last comprehensive planning effort. Englewood's CityCenter has grown into a transit hub as one of the RTD's lightrail stops and bus transfer station; Swedish Medical Center and Craig Hospital are recognized nationally as premier medical facilities; and redevelopment projects at the Flood Middle School and proposed Acoma location are poised to bring life into the Historical Downtown. Englewood is a highly amenitized, first-ring Denver suburb with the opportunity to capitalize on great park and recreation facilities; a great location with access to all modes of transportation; and a relatively affordable alternative to Denver, which is attractive to both a younger demographic and an aging population.

This comprehensive plan will represent these values both in graphic quality and content. A comprehensive plan should be legally-defensible, forward-thinking, interdisciplinary, and community-driven; an effective plan should move beyond the current challenges facing the City to identify opportunities and action strategies that will ensure a thriving and resilient future. There are many plans that simply meet basic requirements, while others are designed to move a community forward and keep the conversation open as the City experiences growth and change. This update is essential to fulfilling the future vision for Englewood. It should take advantage of timely opportunities to provide the best quality of life for its citizens, visitors, and businesses in the years to come.

TASK 1. PROJECT MANAGEMENT AND COMMUNITY ENGAGEMENT PLAN

1.1 ONGOING PROJECT MANAGEMENT

Ongoing project management activities include in-person progress meetings, and biweekly phone calls ensuring that the project scope, schedule, deliverable quality, and budget are effectively managed to your expectations throughout the project for our team has both lived and worked in Englewood and will be there regularly. Project Manager Bruce Meighen will be supported by Assistant Project Manager Kristina Kachur, both of whom are available to fully commit to this important project. Bruce and Kristina will participate in biweekly phone calls and attend the regular progress meetings during the course of this project. Monthly, the project principal, manager, and accountant will review the project management plan, costs, deliverables, milestones, and accomplishments for the preceding month, along with the status of each major task, updating the critical path schedule and monthly workload projections as needed.

Public involvement efforts will build on and compliment efforts from previous and on-going planning projects such as the Englewood Light Rail Corridor Plan, the 2014 Citizen Survey, and public outreach efforts from the Walk and Wheel study. We will ensure that the projects are coordinated and public involvement activities are complimentary to avoid confusion and public involvement fatigue.

1.2 STAFF KICK-OFF WORKSHOP

An in-person meeting will occur between Englewood city staff and consultant team members to review project schedule, communication protocols, review the community engagement plan, identify key issues, and prepare a list of individuals and groups to contact for stakeholder interviews and the stakeholder committee.

1.3 COMMUNITY ENGAGEMENT PLAN

During the project initiation phase of the planning process a complete and robust community engagement plan that consolidates public effort efforts between the three planning processes will be developed by FHU. FHU will work in coordination with the other teams to combine objectives and tools for public outreach efforts along with a master detailed schedule in Excel. FHU will coordinate with other teams to select the four public involvement weeks. The plan will include public outreach goals, activities, venues, and city/consultant team responsibilities that seek to keep citizens informed throughout the planning process, gather feedback at critical points, and create local champions. This living document will serve as the one-stop repository for meetings and activities throughout the plan. The plan will

recommend the means of involvement in the study by the public and outline participation methods and objectives. The Community Engagement Plan will form the basis of the first website update. Specific focus will be placed on seeking regular, broad, representative community participation using highly interactive techniques and a variety of venues and means.

If desired, the Logan Simpson team can offer innovation approaches to public involvement including keypad polling at public events; MindMixer, and PhotoVoice exercises. Further details about community engagement opportunities are presented in the tasks below. We will work with the city to create initial content and updates for a project website to be hosted by the city. Project updates and meeting notifications will also be shared through the Englewood Citizen and social media platforms (Facebook, Twitter, etc.). We also use our comment tracking tools to compare our methods and adjust when necessary. In many cases, we find small group meetings in the square, coffee shop, school or park result in more participation than regular meetings. We also use the system to track if we are reaching under represented populations or hearing just from the vocal minority.

FHU will produce content for the initial postcard mailing. The postcard will introduce the coordinated planning efforts occurring throughout Englewood over the next year and solicit residents for email addresses for future project updates and meeting notifications. Residents will be directed to sign up on the website and can select which projects, if not all, in which they will receive notification. FHU will collect and manage the contact database as described below. The city will be responsible for generating a mailing list based on assessor data as well as print and mail the postcards during the project initiation phase.

To engage and inform the public throughout the planning process, e-newsletters and press releases will be produced. FHU will produce and distribute four e-newsletters throughout the year long planning process. Each firm will provide a project update summary paragraph, a synopsis of public involvement, links to additional info on their webpage, and dates of the next public event (if available). Draft content for four press releases will be provided to the city by FHU for the city to finalize, format and distribute. If needed, paid advertisements will also be used to promote public events and key milestones. FHU will determine the format and draft content of the advertisements for the City to produce and place with the appropriate media.

Logan Simpson will act as a sub consultant to OV for the following tasks: branding, logo, website, and survey development.

1.4 BRANDING, WEBSITE & SURVEYS

In coordination with construction of the website and logo, templates will be produced to give a similar look and feel between online and print materials across all projects. Development of the templates will include fonts and color scheme. Logan Simpson will develop templates for the website, postcard, boards, and e-newsletter. The website will be built using a CMS (Content Management System), such as word press. A template that can be modified will be chosen to sync the website with the look and feel of the logo and color scheme. The city will provide a landing page to host a short overview of the three projects and the link to the website. A logo to be used on all online and print materials to brand this planning process. Logan Simpson will provide InDesign package files, an .ase file, and fonts to FHU and OV for use in creating print materials throughout the project. Logo graphics along with the original files (e.g. Illustrator files) will be provided to FHU and OV for their use in creating materials throughout the project.

Surveys throughout the planning process can be presented in various forms; virtual workshops, data gathering, questionnaires, alternatives selection, etc. Logan Simpson will construct and manage the online surveys. Surveys are planned to take place at three points to support and integrate with the major public outreach events and are described in further detail below. A survey link will be provided to post on the websites and e-newsletters.

1.5 STAKEHOLDER INTERVIEWS

Our team will conduct two all-day interview sessions with stakeholders or small groups that have an interest in the study area. The purpose of our sessions will be to gather feedback on issues and opportunities, generate initial visioning ideas, and stimulate interest in the plan update. In an effort to remain informal and encourage substantial feedback, we suggest holding the interviews at a public location such as The Brew on Broadway or the Copper Pot. City staff will use the stakeholder list prepared in Task 1.2 to schedule meetings with relevant agencies, community leaders, elected officials, residents, businesses, and other organizations or jurisdictions to gain an understanding of land use, transportation, economic development, housing, and other community trends. Logan Simpson specializes in creative ways to engage council, such as a logo and branding kick off summit with council and boards or fireside chats with City Council. Logan Simpson will prepare materials, facilitate all interviews, and prepare a stakeholder summary. The city will assist in assembling the Stakeholder Committee, and members of the public will be encouraged to sign up for specific times. At a minimum, the following groups will be interviewed:

- Planning Commission
- City Council
- City boards and commissions (Alliance for Commerce, Cultural Arts, Housing Authority, Keep Englewood Beautiful, Parks and Recreation Commission, Planning and Zoning Commission, Malley Center Trust Fund Board, Transportation Advisory Board, Urban Renewal Authority, and others as appropriate)
- Chamber of Commerce
- Arapahoe County
- Regional Transportation District
- Englewood School District
- Swedish Medical Center/Craig Hospital
- Greenway Foundation
- Local realtors, real estate brokers, developers and lenders
- Local business owners
- Major local employers
- Major property owners
- Neighborhood representatives
- Englewood Historical Preservation Society
- Other local leaders
- Service providers for low-income and minority populations

1.6 COMMUNITY VISIONING EVENTS

A community vision event and online survey would be held to kick off the plan to the community and reaffirm people's values. A series of "Visioning in the Park" workshops would be held to shape the resulting graphic vision document. In coordination with the community visioning events, a joint Planning Commission and City Council Work session will be held.

Deliverables:

- Website, Branding, Logo
- Kick-off meeting agenda, attendance, and minutes
- Community Engagement Plan
- Website content
- Stakeholder interview/questions, facilitation, and summary
- Social Media tools
- Comment tracking system
- Visioning in the Park series
- Online survey #1

Meetings:

- In-person staff kick-off meeting
- Stakeholder interviews
- PC/CC Visioning Worksession #1
- Biweekly progress calls

TASK 2: INDICATORS UPDATE

The community indicator update will provide more than just a summary of the current realities in Englewood. All data presented will be contextualized in terms of trends, the greater region, or changing needs in the community — making the analysis more relevant to the vision, opportunities, policies, and implementation strategies that will be further explored in the Comprehensive Plan. Information will be displayed in a graphic, easily digestible format that clearly communicates Englewood's strengths, weaknesses, opportunities, and threats. Logan Simpson specializes in displaying complicated information in creative and highly effective means, such as infographics.

P.U.M.A. will utilize its 2014 Global Trends Report to provide both regional and national context to the Englewood Indicators Report and to help guide the expected trajectory of Englewood's future economic development. Developed in conjunction with the University of Colorado Denver College of Architecture and Planning, the 2014 Global Trends Report analyzed shifts in demographics, lifestyles and global competition and their influence in shaping American cities and towns. We can utilize the Global Trends research platform to inform the Comprehensive Plan in the following ways:

- As part of the Indicators Report, we will prepare a narrative analysis on how Global Trends are affecting Englewood. Importantly, we will identify the trends that Englewood can capitalize upon that could help to improve both the quality of life and overall prosperity of the community.
- Global Trends can be presented as part of the overall Comprehensive Plan process to stimulate dialogue among civic leaders and the community at-large on opportunities that should and can be addressed within the Plan. We envision tailoring the Global Trends presentation to the unique dynamics of Englewood and incorporating it into a variety of formats, including community open houses and/or work sessions for the City Council, Planning Commission and other governing boards.

2.1 COMMUNITY PROFILE

The Community Profile will provide a picture of the socio-economic characteristics of the Englewood population in 1990, 2000, and 2010 using United States Census and American Community Survey 5 Year Estimates data. Comparisons will be made with the Denver Metropolitan Area, as well as Englewood's peer metro suburbs which include the communities of Littleton, Wheat Ridge, Northglenn, and Commerce City, and how each has changed over the thirty year period. Distributions of the data will be mapped using GIS. Logan Simpson has also completed demographic analyzes for DRCOG and NFRMPO and are able to model the physiographic profile of specific Englewood neighborhood residents, along with their spending, housing, and other needs.

The LSD team will frame the demographic within the context of other forces and considerations to determine how demographics will factor into future planning opportunities and decisions, providing the City with the opportunity to reevaluate its land use mix and ensure that it is targeted toward encouraging employment growth, stimulating commercial development, and preserving fiscal sustainability.

2.2 COMMUNITY INDICATOR SNAPSHOTS

Using the best available data from the City, Arapahoe County, Colorado and national data sets, and other sources, the team will research and synthesize information for each planning topic into a series of "community indicator snapshots" that will provide not only an overview of baseline conditions, but also define how those conditions influence the development of policies, land uses, and opportunities for the comprehensive plan. In addition, each snapshot will provide a comparison to the previous report. The Logan Simpson team will begin initial data collection using immediately available local, state, and national economic data sources, and will review the 2005 Community Indicator Report. The community input and data analysis will be placed into a strategic planning context that describes the strengths, weaknesses, opportunities, and threats related to economic health. This will include the integration of our centers and corridors performance analysis for DRCOG, which addresses all economic centers in the region. We are also beginning a comparison of all codes and plans in the region, allowing us to assess these reports against comparable communities. The snapshots will be available online for download by interested parties.

Land Use & Economic Development

Throughout the recession, the City pursued a number of redevelopment initiatives and economic development strategies, including the Arapahoe County Enterprise Zone, business incentives, and a Business Improvement District that was eventually dissolved. The economic development entities and the tools and partnerships already underway will

be understood and considered in the analysis. Our team will also conduct targeted analysis of how to reduce commercial vacancies through analysis of retail space, discussion with business owner, and a general and neighborhood market overview.

Employment

- Total Employment by NAICS Industry
- Employment Share by NAICS Industry
- Total Number of Businesses by NAICS Industry
- Average Wage by NAICS Industry
- City of Englewood Largest Private Employers

Labor

- Occupational Employment Mix
- Unemployment Rate
- Share of Households by Median Household Income
- Educational Attainment
- Professional Licenses

Real Estate

- Non-residential Building Permits
- Total Office Square Feet
- Office Vacancy Rates
- Average Office Lease Rates

Tax Revenues and Retail Sales

- Property Tax Revenue
- Sales Tax Revenue
- Retail Sales
- Retail Sales per Capita

Housing

An attractive and diverse housing stock is vital to ensuring that the City preserves its position as an attractive place to live and attain its economic development goals. The recovering Englewood economy and changing demographics are significantly altering the dynamics of the regional housing market, requiring an updated understanding of local housing needs. The Alexan CityCenter Apartments, Flood Middle School PUD, and the planned Acoma Redevelopment are changing the face of the CityCenter and the Historical Downtown District. This will include a parcel level analysis of each neighborhood to determine which neighborhoods will transition.

Housing

- Median Housing Price
- Price per Square Foot
- Total Home Sales
- Home Sales by Price Range
- Home Sales by Size
- Residential Assessed Valuation
- Apartment Rental Rates
- Apartment Vacancy Rates
- Number of Housing Units
- Residential Units by Type
- Average Household Size
- Apartment units by Age

Transportation

The LSD team will integrate the data with existing plans including; Master Bicycle Plan, Englewood Complete Streets Toolbox, and the Englewood Light Rail Corridor Plan. The snapshot will document opportunities to improve the vibrancy of key corridors and identify the potential opportunities for the integration of land use and transportation. A key focus will be on the pedestrian environment.

- Traffic Counts
- Commute Times
- Drive and Transit Times
- Light Rail Weekly Boardings
- Light Rail park-n-Ride Capacity
- Transit Stop Land Uses
- Transit Stop Land Use Densities

Parks, Recreation, and Open Space

Englewood's parks, recreation facilities, and open space are essential quality-of-life amenities for its residents. The snapshot for this plan element will build off the Parks and Recreation Master Plan, South Platte River Open Space Plan, and other relevant plans.

- Acres of Parks and Open Space Land
- Recreational Activities Participation
- Population Base Standards
- Open Space Funding
- Parks and Recreation Development Charges
- Culture and Recreation Expenditures
- Targeted Properties for Open Space Acquisition

Community and Environmental Health

Health and the built environment are increasingly connected. Community and environmental health can be measured by many of the indicators above, such as access to transit, education, and land use mixes. Community health includes the physical health of the residents in Englewood, as well as exposure to the arts and culture.

Environment

- Air Quality
- Water Usage
- Brownfields

Culture

- SCFD Funding
- Event Attendance
- Library Budget and Visitors
- Discretionary Cultural Spending by Residents
- Art in Public Places

Community Health

- Walkability
- Bikability
- Access to healthy foods

2.3 GIS SOCIO-ECONOMIC AND CONSUMER DATABASE

The GIS Socio-Economic and Consumer Database covers a 5-mile radius of U.S. Census block groups around the City of Englewood. The consultant team will add additional data to this database to include both 1990 and 2010 U.S. Census Data, and 2012 American Community Survey 5-Year Estimates. The consultant team will produce a version of the

original database at the block level for the City of Englewood proper. Data for the City will be mapped using GIS in order to discern significant distributional patterns. Logan Simpson has experience compiling demographic data from multiple sources to create a comprehensive database. Similar processes were used to inform the update of the Arvada and Loveland Comprehensive Plans.

2.4 GIS HOUSING DATABASE

A GIS Housing Indicators Database will include various attributes at the property parcel level taken from the Arapahoe County Assessor database and various City databases. Attributes could include quality grade, condition, year built, owner vs. renter occupied, valuation, square footage, and nonconformities. The GIS Housing Database will be used to identify housing issues and opportunities in order to craft strategies designed to address certain geographical areas of the City. Data for the City will be mapped using GIS in order to discern significant distributional patterns.

Deliverables:

- Community Profile Report and Maps
- Community Indicator Snapshots: Land Use & Economic Development; Housing; Transportation; Parks, Recreation & Open Space; and Community & Environmental Health
- Socio-economic, Consumer, and Housing Geodatabases and maps

Meetings:

- Bi-weekly progress calls
- Staff work session to review geodatabases and maps

TASK 3: STATE OF THE CITY NEEDS ASSESSMENT AND PRIORITY RECOMMENDATIONS

3.1 STATE OF THE CITY REPORT DEVELOPMENT

The data collections listed above, along with additional information provided by the City, will be used to prepare the State of the City Needs Assessment and Priority Recommendations Report. This report will serve as the foundation for the development of strategies designed to implement the Comprehensive Plan goals and objectives. The Logan Simpson team will analyze the collected data in order to assess the City's strengths, weaknesses, opportunities, and threats. We anticipate that this will mimic the brochure like graphic duality of the community profile snapshots. A set of priority recommendations will be included.

3.2 DEVELOPMENT OF CHARACTER DISTRICTS

Members of the Logan Simpson team recently took over the Jackson/Teton Wyoming Comprehensive Plan from another consulting firm after it failed to gain adoption following 40 planning commission meetings. The original plan attempted to force conventional land uses on a community with strong values. Our staff replaced this plan with one based on the community's vision, and developed a series of character districts. The resulting comprehensive plan and 14 subareas were unanimously adopted, and this success has yielded the opportunity for our staff to assist in development of their land use code, a housing assessment, and transportation plan.

We propose to use this character district approach with you instead of a traditional future land use map. In addition to looking at the City as a whole, the consultant will analyze specific geographical areas of the City and developing recommendations for each area. Opportunities will be grounded in character preservation and placemaking, focusing on Englewood's unique qualities and aspirations. The city will be divided into Character Districts – subareas with common characteristics and goals – so that the vision and opportunities can be specifically tailored to the activity centers and neighborhoods of the community. These character-oriented opportunities will form the basis of the future comprehensive plan. We avoid technical jargon and "planner-ese," instead focusing on how to make change work at the neighborhood level while accomplishing the community's vision.

We have a responsibility to preserve the essence and character of what makes each place special and unique. The next round of long-range planning can shape and solidify the City's identity and protect the desired character of the community moving forward. Working closely with residents and stakeholders, we will identify authentic characteristics of Englewood and its sub-districts – utilizing a character-based approach to integrated land use planning.

Targeted planning at the neighborhood and business district level will help the City clarify and define the character of each subarea in order to protect the identity of the City as a whole. These "Character District" plans will direct the form,

architecture and design, housing, transportation, parks and open space and other elements of the urban fabric for each distinct subarea of the community.

The Character District plans, along with the identification of catalyst site projects, will form the basis of the land use policy and implementation components of the comprehensive plan. Rather than creating a map or drawings that simply denote intentions for the future, the maps and graphics in the plan will focus on targeted projects for each district that contribute to the community's vision.

It is essential that future growth or change in Englewood serves a purpose and meets the community's vision. A responsive, adaptive growth management program can guide the amount, type and location of growth throughout Englewood, as well as ensure growth contributes to the City's desired character, economy, and sustainability.

The specific geographical areas include the following:

Activity Centers

- CityCenter Englewood
- Historical Downtown District
- Medical District
- Gateway District (Broadway)
- Cherrelyn District (Broadway)
- Brookridge District (Broadway)
- Light Rail Corridor
- Evans Avenue Corridor
- South Platte River
- College View Industrial Area

Neighborhoods

- Baker Park
- Cushing Park/Bishop Elementary
- Bates-Logan Park
- Romans Park/Charles Hay Elementary
- Englewood High School/Middle School Campus
- Jason Park/Maddox Elementary
- Belleview Park/Clayton Elementary
- Duncan Park/Cherrelyn Elementary
- Centennial Park

3.3 NEIGHBORHOOD CHOICES

Using the structure of the character districts, area residents would be asked at a series of small meeting what changes would benefit them and the entire community. These will help inform the final recommendations.

Deliverables:

- State of the City Needs Assessment and Priority Recommendations
- Character District Plans
- Summary packet for distribution to City Council, boards, commissions, and committees

Meetings:

- Bi-weekly progress calls
- Neighborhood Choices public meetings
- Online survey #2

TASK 4: REVIEW OF CURRENT COMPREHENSIVE PLAN GOALS AND OBJECTIVES AND RELATED PLANS

4.1 INVENTORY AND REVIEW

Logan Simpson will create an inventory of relevant city policies, plans, standards, and guidelines. The existing plans, goals, and objectives prepared by the city, county, state, or private entities will be assessed to understand how Englewood's policies operate today and what needs and conflicts exist under current regulatory guidance in relation to expected future demands. The consultant team will make recommendations to strengthen each topical goal and objective area, taking special care to make suggestions to strengthen active living, healthy living, and sustainability.

Building off the proposed edits from the City Council Comprehensive Plan Review Committee, the Logan Simpson team will compile the above inventory, reviews and assessments of existing plans, and stakeholder feedback. This information will be used to highlight the big issues and present recommended changes to key City Boards, commissions, and City Council. New plan elements will be determined for inclusion in the plan development, plan element strategies, and implementation work program in Task 5. A survey tool will be used to inventory policies that need to be dropped, changed, or added.

Deliverables:

- Audit of current comprehensive plan goals and objectives relevance matrix relative to the issues, preliminary vision, and areas of future concern
- Presentation of recommended changes

Meetings:

- Bi-weekly progress calls
- Planning Commission and City Council Presentations
- City Boards Presentations

TASK 5: PLAN ELEMENT STRATEGIES AND IMPLEMENTATION WORK PROGRAM

5.1 STRATEGIES AND IMPLEMENTATION RECOMMENDATIONS

This crucial task is the bridge between vision and implementation, during which the project team will define various components of the plan that will require actions and define strategies to employ in their implementation. Components that require funding and coordination will be identified. Strategies will include programs and action items that the City currently provides the community, as well as suggested additional strategies for City Council consideration. The suggested strategies will be categorized as modest, moderate, and aggressive. The consultant will present the various levels of strategies as options for City Council to consider for moving the City forward over the next ten years. A joint workshop will be held with City Council and Planning Commission to review suggested strategies. The workshop will be interactive and require dialogue between members of the council and commission.

To guide economic development in the community, we will draw from our trends analysis and local market data to provide strategies to help attract investment to each of the City's activity centers. We will define a market niche that is unique to each activity center and connects to the overall vision of Englewood. Business recruitment and retention strategies will be tailored for each activity center along with economic development tactics to help guide implementation over short and long term planning horizons. We will also provide suggestions to create new and/or strengthen existing public/private partnerships to enhance economic development investment in each activity center. Financing strategies will be identified to help leverage city resources for improvements and to sustain long term economic development programming.

Strategies and the plan will be tied to council strategic goals and budget. An annual workplan will be created to ensure that the comprehensive plan is closely linked to the city's budget and capital improvement plan (CIP). The adaptive management action plan will include a series of checks and balances to make sure that the plan is implemented in a way that contributes to the vision for Englewood. This will include recommended indicators and corrective actions, if necessary. In developing strategies, successful models from other communities, cost-effectiveness, and implementation best practices will all be considered.

A tactical urbanism event that brings people out of the tradition meeting spaces will be used to demonstrate and collect feedback from the public on strategies and implementation.

Deliverables:

- Plan element strategies and implementation work program, including a matrix of recommendations phased by timing
- Public event notification materials for City distribution
- Public event materials, facilitation, and summary
- Online survey #3

Meetings:

- Bi-weekly progress calls
- Tactical Urbanism Event
- Staff Work Session
- Planning Commission/City Council Joint Work Session #2

TASK 6: PREPARE DRAFT COMPREHENSIVE PLAN UPDATE DOCUMENT FOR FINAL ADOPTION

6.1 DRAFT PLAN

The resulting plan will be highly graphic and embody the values of the community. The plan may center on the primary values by character districts and resulting implementation tied to the City's CIP. The public and stakeholders will be given an opportunity to review and provide feedback on the draft plan during a month-long review period. Comments will be reviewed and incorporated in the final revisions to the plan. The draft plan will be available online for download by interested parties.

6.2. FINAL PLAN

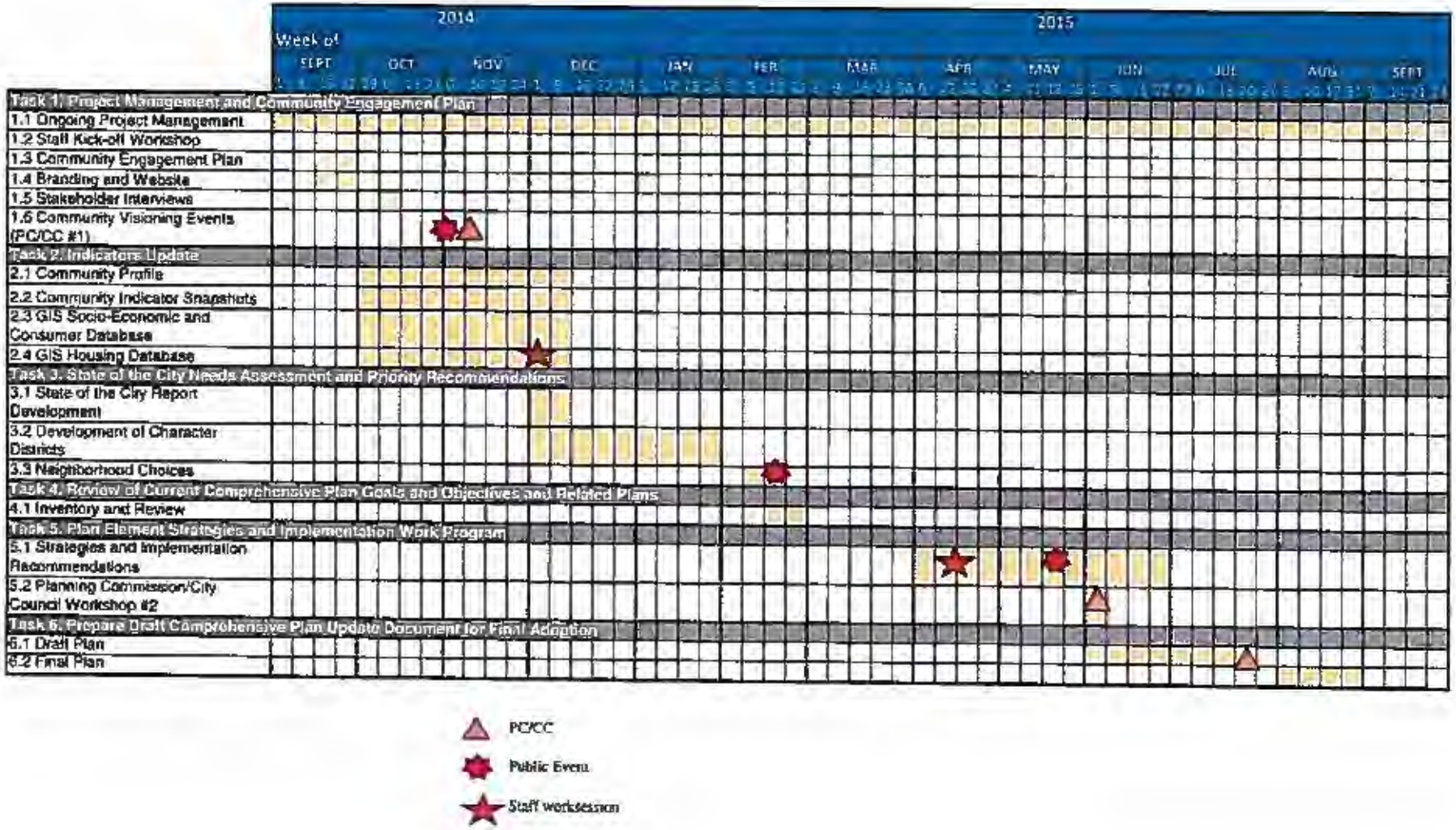
Staff and the consultant team will present the final draft plan to the Planning and Zoning Commission and City Council in formal study sessions. The consultant will make revisions or edits to the draft plan at the direction of the City project manager. The finalized plan document will then be advanced through a traditional public hearing and resolution process. The final plan will be available online for download by interested parties.

Deliverables:

- Draft comprehensive plan, including graphics/renderings, maps, and appendices
- Presentations on draft plan
- Revised final comprehensive plan

Meetings:

- Bi-weekly progress calls
- Planning Commission and City Council Study Sessions
- Planning Commission and City Council Hearings


2014
2015
Week of
SEPT
OCT
NOV
DEC
JAN
FEB
MAR
APR
MAY
JUN
JUL
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SEPT
Task 1. Project Management and Community Engagement Plan
1.1 Ongoing Project Management
1.2 Staff Kick-off Workshop
1.3 Community Engagement Plan
1.4 Branding and Website
1.5 Stakeholder Interviews
1.6 Community Visioning Events (PC/CC #1)
Task 2. Indicators Update
2.1 Community Profile
2.2 Community Indicator Snapshots
2.3 GIS Socio-Economic and Consumer Database
2.4 GIS Housing Database
Task 3. State of the City Needs Assessment and Priority Recommendations
3.1 State of the City Report Development
3.2 Development of Character Districts
3.3 Neighborhood Choices
Task 4. Review of Current Comprehensive Plan Goals and Objectives and Related Plans
4.1 Inventory and Review
Task 5. Plan Element Strategies and Implementation Work Program
5.1 Strategies and Implementation Recommendations
5.2 Planning Commission/City Council Workshop #2
Task 6. Prepare Draft Comprehensive Plan Update Document for Final Adoption
6.1 Draft Plan
6.2 Final Plan
PC/CC
Public Event
Staff worksession

1.1 Capacity Project Management	10	40	15	10				75	$9,150		$9,150				$1,200		$1,200				$775		$775	$9,150	$0	$9,150										
1.2 Staff Kick-off Workshop	4	45						49	$7,320	$150	$7,470	4	4		$1,400	$300	$1,400	3			$775	$300	$775	$8,475	$300	$8,475										
1.3 Community Engagement Plan		50						50	$5,750		$5,750				$0		$0				$0		$0	$5,750	$0	$5,750										
1.4 Scoping, Website & Surveys		15							$1,650		$1,650				$0		$0				$0		$0	$1,650	$0	$1,650										
1.5 Stakeholder Interviews	8	20		14				50	$3,250	$300	$3,550				$0		$0				$0		$0	$3,550	$0	$3,550										
1.6 Community Visioning Events (RCCC Work Sessions #1)	15	30	10	15				70	$6,450	$300	$7,150	6	6	10	$2,700	$300	$2,700	3			$775	$300	$775	$7,150	$300	$7,150										
Subtotal	48	208	35	39	0	0	0	322	$33,570	$750	$34,320	10	10	10	$5,300	$600	$5,400	15	0	0	$2,325	$900	$2,475	$33,120	$300	$33,420										
2.1 Community Profile	6	5			30			35	$3,000		$3,000				$0		$0				$0		$0	$3,000	$0	$3,000										
2.2 Community Indicator Scorecards	5	10			10	10		40	$3,400	$100	$3,500	20	20	20	$10,000		$10,000	5	5	4	$1,875		$1,875	$15,400	$100	$15,500										
2.3 GIS Base Resource and Consumer Database		10			30			40	$3,350		$3,350			10	$750		$750				$0		$0	$4,100	$0	$4,100										
2.4 GIS Housing Database		10			30			40	$3,350		$3,350			10	$750		$750				$0		$0	$4,100	$0	$4,100										
Subtotal	11	35	0	0	90	10	0	134	$13,100	$100	$13,200	20	20	40	$12,500	$0	$12,500	5	5	4	$1,875	$0	$1,875	$26,575	$100	$26,675										
3.1 State of the City Report Development	10	20	10		10			50	$4,200		$4,200	10	5	10	$2,500		$2,500	5	5	3	$1,125	$50	$1,175	$8,825	$50	$8,875										
3.2 Development of Character Clusters	5	10	20	20	5	10		60	$6,850	$300	$7,150	10	10	10	$4,250		$4,250				$0		$0	$11,400	$300	$11,700										
3.3 Neighborhood Capacity	15	40		20				75	$8,500	$200	$8,650		5	5	$1,775	$100	$1,875				$0		$0	$10,275	$300	$10,575										
Subtotal	30	80	30	40	15	10	0	185	$19,550	$500	$20,050	20	20	25	$8,525	$100	$8,625	5	5	3	$1,125	$50	$1,175	$29,500	$650	$30,150										
4.1 Inventory and Review	10	40	10	20		20	10	110	$9,500	$300	$9,800	5	10		$2,500		$2,500	5		5	$1,300		$1,300	$13,300	$300	$13,600										
Subtotal	10	40	10	20	0	20	10	110	$9,500	$300	$9,800	5	10	0	$2,500	$0	$2,500	5	0	5	$1,300	$0	$1,300	$13,300	$300	$13,600										
5.1 Strategies and Implementation Recommendations	10	20	14	20		20	15	119	$11,442	$300	$11,742	10	10	10	$3,500	$100	$3,700	5	5		$1,500		$1,500	$16,942	$400	$17,342										
5.2 RCCC Work Session #2	5	5						10	$1,320		$1,320	6			$1,700		$1,700				$0		$0	$3,020	$0	$3,020										
Subtotal	15	25	14	20	0	20	15	129	$12,762	$300	$13,062	16	10	10	$5,200	$100	$5,300	5	5	0	$1,500	$0	$1,500	$19,962	$400	$20,362										
6.1 Draft Plan	10	40	10	5	5	5	5	80	$7,375	$500	$7,775	5	5	10	$2,875	$500	$3,375		5		$775	$500	$775	$10,925	$500	$11,425										
6.2 Final Plan	10	40	10	5	5			60	$6,625	$501	$6,126	5	5	10	$2,500		$2,500				$0		$0	$9,125	$501	$9,626										
Subtotal	20	80	20	5	10	5	5	140	$13,900	$501	$14,401	10	10	20	$5,375	$500	$5,875	-10	5	0	$775	$500	$1,275	$19,050	$1,001	$20,051										
Total	140	267	90	124	115	65	30	941	$102,430	$2,401	$104,831	61	70	105	$43,300	$300	$44,300	25	20	11	$9,400	$2,000	$11,400	$146,730	$3,701	$150,431										

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
September 15, 2014	11 c iv	Professional Services Agreement for the Englewood Light Rail Corridor Next Steps Study: Felsburg Holt and Ullevig
Initiated By:		**Staff Source:**
Community Development		John Voboril, Long Range Planner II

PREVIOUS COUNCIL ACTION

At the July 8, 2013 City Council study session, Community Development informed Council of the Denver Regional Council of Governments (DRCOG) call for applications for 2014-15 Station Area Master Plan projects, and received permission to apply for a "Next Steps Study" as a follow up to the recently completed Englewood Corridor Light Rail Station Area Master Plan. As the grant deadline was fast approaching in September of 2013, DRCOG asked Englewood to partner with the City of Sheridan in order to include the study of station enhancements and connections from the west. At the April 21, 2014 City Council study session, Community Development informed Council concerning the details of the partnership with the City of Sheridan, and the upcoming Intergovernmental Agreements between Englewood and the Regional Transportation District (RTD) and between the City of Englewood and the City of Sheridan. IGA's with RTD and the City of Sheridan were approved on first reading (May 19, 2014), and second reading (June 2, 2014).

RECOMMENDED ACTION

Community Development is requesting Council approve, by motion, a contract for professional services to conduct the Englewood Light Rail Corridor Next Steps Study, in the amount of $289,876. Staff recommends awarding the contract to Felsburg Holt and Ullevig, the firm chosen through a competitive Request for Proposal (RFP) process.

BACKGROUND AND ANALYSIS

Community Development released an RFP for the Englewood Light Rail Corridor Next Steps Study on June 19, 2014. A total of four consulting teams submitted proposals for the Next Steps Study. Each proposal was rated by Community Development staff in terms of project methodology, firm and staff profiles, capacity to assume risk, references, and fee schedule. The four consulting teams were interviewed by Community Development staff members, as well as Assistant City Manager Mike Flaherty, and Sheridan City Planner Jennifer Henninger.

Felsburg Holt and Ullevig (FHU), a local transportation planning firm, was the top scoring consulting team in the RFP review phase. The FHU proposal offered the most labor consultant labor hours for the contract budget amount, and the FHU personnel, task, and fee schedule most closely met the needs of the City as outlined in the RFP scope. The selection committee's initial findings were confirmed in the interview process.

FINANCIAL IMPACT

DRCOG has committed $250,000 of Congestion Mitigation and Air Quality (CMAQ) funds to the Englewood Light Rail Corridor Next Steps Study, with a requirement for a minimum local match of twenty percent of the total project cost. The Englewood local match for this project ($40,000) is budgeted in the Public Improvement Fund. An additional $10,000 local match of in-kind staff project management time will be tracked based on hourly salary compensation and contributed to the project. The City of Sheridan is contributing $10,000 in local matching funds in order to participate in the project.

LIST OF ATTACHMENTS

Professional Services Agreement Englewood Light Rail Corridor Next Steps Study - Felsburg Holt and Ullevig

PROFESSIONAL SERVICES AGREEMENT

ENGLEWOOD LIGHT RAIL CORRIDOR NEXT STEPS STUDY

This Professional Services Agreement (the "Agreement") is made as of this _____ day of _____, 20__, (the "Effective Date") by and between Felsburg Holt and Ullevig, a Colorado-based corporation ("Consultant"), and The City of Englewood, Colorado, a municipal corporation organized under the laws of the State of Colorado ("City").

City desires that Consultant, from time to time, provide certain consulting services, systems integration services, data conversion services, training services, and/or related services as described herein, and Consultant desires to perform such services on behalf of City on the terms and conditions set forth herein.

In consideration of the foregoing and the terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. The terms set forth below shall be defined as follows:

(a) "Intellectual Property Rights" shall mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (1) rights associate with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (2) trademark and trade name rights and similar rights, (3) trade secret rights, (4) patents, designs, algorithms and other industrial property rights, (5) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (6) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

(b) "Work Product" shall mean all patents, patent applications, inventions, designs, mask works, processes, methodologies, copyrights and copyrightable works, trade secrets including confidential information, data, designs, manuals, training materials and documentation, formulas, knowledge of manufacturing processes, methods, prices, financial and accounting data, products and product specifications and all other Intellectual Property Rights created, developed or prepared, documented and/or delivered by Consultant, pursuant to the provision of the Services.

2. Statements of Work. During the term hereof and subject to the terms and conditions contained herein, Consultant agrees to provide, on an as requested basis, the consulting services, systems integration services, data conversion services, training services, and related services (the "Services") as further described in Schedule A (the "Statement of Work") for City, and in such additional Statements of Work as may be executed by each of the parties hereto from time to time pursuant to this Agreement. Each Statement of Work shall specify the scope of work, specifications, basis of compensation and payment schedule, estimated length of time required to complete each Statement of Work, including the estimated start/finish dates, and other relevant information and shall incorporate all terms and conditions contained in this Agreement

3. Performance of Services.

(a) Performance. Consultant shall perform the Services necessary to complete all projects outlined in a Statement of Work in a timely and professional manner consistent with the specifications, if any, set forth in the

Statement of Work, and in accordance with industry standards. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents in completing the projects outlined in a Statement of Work.

(b) Delays. Consultant agrees to notify City promptly of any factor, occurrence, or event coming to its attention that may affect Consultant's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of the projects contemplated by this Agreement or any Statement of Work. Such notice shall be given in the event of any loss or reassignment of key employees, threat of strike, or major equipment failure. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

(c) Discrepancies. If anything necessary for the clear understanding of the Services has been omitted from the Agreement specifications or it appears that various instructions are in conflict, Vendor shall secure written instructions from City's project director before proceeding with the performance of the Services affected by such omissions or discrepancies.

4. Invoices and Payment. Unless otherwise provided in a Statement of Work, City shall pay the amounts agreed to in a Statement of Work within thirty (30) days following the acceptance by City of the work called for in a Statement of Work by City. Acceptance procedures shall be outlined in the Statement of Work. If City disputes all or any portion of an invoice for charges, then City shall pay the undisputed portion of the invoice by the due date and shall provide the following notification with respect to the disputed portion of the invoice. City shall notify Consultant as soon as possible of the specific amount disputed and shall provide reasonable detail as to the basis for the dispute. The parties shall then attempt to resolve the disputed portion of such invoice as soon as possible. Upon resolution of the disputed portion, City shall pay to Consultant the resolved amount.

5. Taxes. City is not subject to taxation. No federal or other taxes (excise, luxury, transportation, sales, etc.) shall be included in quoted prices. City shall not be obligated to pay or reimburse Consultant for any taxes attributable to the sale of any Services which are imposed on or measured by net or gross income, capital, net worth, franchise, privilege, any other taxes, or assessments, nor any of the foregoing imposed on or payable by Consultant. Upon written notification by City and subsequent verification by Consultant, Consultant shall reimburse or credit, as applicable, City in a timely manner, for any and all taxes erroneously paid by City. City shall provide Consultant with, and Consultant shall accept in good faith, resale, direct pay, or other exemption certificates, as applicable.

6. Out of Pocket Expenses. Consultant shall be reimbursed only for expenses which are expressly provided for in a Statement of Work or which have been approved in advance in writing by City, provided Consultant has furnished such documentation for authorized expenses as City may reasonably request.

7. Audits. Consultant shall provide such employees and independent auditors and inspectors as City may designate with reasonable access to all sites from which Services are performed for the purposes of performing audits or inspections of Consultant's operations and compliance with this Agreement. Consultant shall provide such auditors and inspectors any reasonable assistance that they may require. Such audits shall be conducted in such a way so that the Services or services to any other customer of Consultant are not impacted adversely.

8. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall continue unless this Agreement is terminated as provided in this Section 8.

(a) Convenience. City may, without cause and without penalty, terminate the provision of Services under any or all Statements of Work upon thirty (30) days prior written notice. Upon such termination, City

shall, upon receipt of an invoice from Consultant, pay Consultant for Services actually rendered prior to the effective date of such termination. Charges will be based on time expended for all incomplete tasks as listed in the applicable Statement of Work, and all completed tasks will be charged as indicated in the applicable Statement of Work.

(b) No Outstanding Statements of Work. Either party may terminate this Agreement by providing the other party with at least thirty (30) days prior written notice of termination if there are no outstanding Statements of Work.

(c) Material Breach. If either party materially defaults in the performance of any term of a Statement of Work or this Agreement with respect to a specific Statement of Work (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting party may terminate this Agreement or any or all outstanding Statements of Work by providing ten (10) days prior written notice of termination to the defaulting party.

(d) Bankruptcy or Insolvency. Either party may terminate this Agreement effective upon written notice stating its intention to terminate in the event the other party: (1) makes a general assignment of all or substantially all of its assets for the benefit of its creditors; (2) applies for, consents to, or acquiesces in the appointment of a receiver, trustee, custodian, or liquidator for its business or all or substantially all of its assets; (3) files, or consents to or acquiesces in, a petition seeking relief or reorganization under any bankruptcy or insolvency laws; or (4) files a petition seeking relief or reorganization under any bankruptcy or insolvency laws is filed against that other party and is not dismissed within sixty (60) days after it was filed.

(e) TABOR. The parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement to the contrary, all payment obligations of City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of City's current fiscal period ending upon the next succeeding December 31. Financial obligations of City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated.

(f) Return of Property. Upon termination of this Agreement, both parties agree to return to the other all property (including any Confidential Information, as defined in Section 11) of the other party that it may have in its possession or control.

9. City Obligations. City will provide timely access to City personnel, systems and information required for Consultant to perform its obligations hereunder. City shall provide to Consultant's employees performing its obligations hereunder at City's premises, without charge, a reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, secretarial and other necessary equipment, supplies, and services. With respect to all third party hardware or software operated by or on behalf of City, City shall, at no expense to Consultant, obtain all consents, licenses and sublicenses necessary for Consultant to perform under the Statements of Work and shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

10. Staff. Consultant is an independent consultant and neither Consultant nor Consultant's staff is, or shall be deemed to be employed by City. City is hereby contracting with Consultant for the Services described in a Statement of Work and Consultant reserves

the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by Consultant or Consultant's staff, and City shall not be required to hire, supervise or pay any assistants to help Consultant perform the Services under this Agreement. Except to the extent that Consultant's work must be performed on or with City's computers or City's existing software, all materials used in providing the Services shall be provided by Consultant.

11. Confidential Information.

(a) Obligations. Each party hereto may receive from the other party information which relates to the other party's business, research, development, trade secrets or business affairs ("Confidential Information"). Subject to the provisions and exceptions set forth in the Colorado Open Records Act, CRS Section 24-72-101 et. seq., each party shall protect all Confidential Information of the other party with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Without limiting the generality of the foregoing, each party hereto agrees not to disclose or permit any other person or entity access to the other party's Confidential Information except such disclosure or access shall be permitted to an employee, agent, representative or independent consultant of such party requiring access to the same in order to perform his or her employment or services. Each party shall insure that their employees, agents, representatives, and independent consultants are advised of the confidential nature of the Confidential Information and are precluded from taking any action prohibited under this Section 11. Further, each party agrees not to alter or remove any identification, copyright or other proprietary rights notice which indicates the ownership of any part of such Confidential Information by the other party. A party hereto shall undertake to immediately notify the other party in writing of all circumstances surrounding any possession, use or knowledge of Confidential Information at any location or by any person or entity other than those authorized by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall restrict either party with respect to information or data identical or similar to that contained in the Confidential Information of the other party but which (1) that party rightfully possessed before it received such information from the other as evidenced by written documentation; (2) subsequently becomes publicly available through no fault of that party; (3) is subsequently furnished rightfully to that party by a third party without restrictions on use or disclosure; or (4) is required to be disclosed by law, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure.

(b) Know-How. For the avoidance of doubt neither City nor Consultant shall be prevented from making use of know-how and principles learned or experience gained of a non-proprietary and non-confidential nature.

(c) Remedies. Each of the parties hereto agree that if any of them, their officers, employees or anyone obtaining access to the Confidential Information of the other party by, through or under them, breaches any provision of this Section 11, the non-breaching party shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations and benefits which the breaching party, its officers or employees directly or indirectly realize or may realize as a result of or growing out of, or in connection with any such breach. In addition to, and not in limitation of the foregoing, in the event of any breach of this Section 11, the parties agree that the non-breaching party will suffer irreparable harm and that the total amount of monetary damages for any such injury to the non-breaching party arising from a violation of this Section 11 would be impossible to calculate and would therefore be an inadequate remedy at law. Accordingly, the parties agree that the non-breaching party shall be entitled to temporary and permanent injunctive relief against the breaching party, its officers or employees and such other rights and remedies to which the non-breaching party may be entitled to at law, in equity or under this

Agreement for any violation of this Section 11. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.

12. Project Managers. Each party shall designate one of its employees to be its Project Manager under each Statement of Work, who shall act for that party on all matters under the Statement of Work. Each party shall notify the other in writing of any replacement of a Project Manager. The Project Managers for each Statement of Work shall meet as often as either one requests to review the status of the Statement of Work.

13. Warranties.

(a) Authority. Consultant represents and warrants that: (1) Consultant has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (2) the execution of this Agreement by Consultant, and the performance by Consultant of its obligations and duties hereunder, do not and will not violate any agreement to which Consultant is a party or by which it is otherwise bound under any applicable law, rule or regulation; (3) when executed and delivered by Consultant, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (4) Consultant acknowledges that City makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement

(b) Service Warranty. Consultant warrants that its employees and consultants shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

(c) Personnel. Unless a specific number of employees is set forth in the Statement of Work, Consultant warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement or as set forth in the Statement of Work. During the course of performance of Services, City may, for any or no reason, request replacement of an employee or a proposed employee. In such event, Consultant shall, within five (5) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. Consultant shall require employees providing Services at a City location to comply with applicable City security and safety regulations and policies.

(d) Compensation and Benefits. Consultant shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Consultant or to any employee for Consultant's failure to perform its compensation, benefit, or tax obligations. Consultant shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

14. Indemnification.

(a) Consultant Indemnification. Consultant shall indemnify, defend and hold harmless City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing (the "City Indemnitees") from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature, suffered or incurred by a City Indemnitee directly or indirectly arising from or related to: (1) any negligent or intentional act or omission by Consultant or its representatives in the performance of Consultant's obligations under this Agreement, or (2) any material breach in a representation, warranty, covenant or

obligation of Consultant contained in this Agreement.

(b) Infringement. Consultant will indemnify, defend, and hold City harmless from all Indemnifiable Losses arising from any third party claims that any Work Product or methodology supplied by Consultant infringes or misappropriates any Intellectual Property rights of any third party; provided, however, that the foregoing indemnification obligation shall not apply to any alleged infringement or misappropriation based on: (1) use of the Work Product in combination with products or services not provided by Consultant to the extent that such infringement or misappropriation would have been avoided if such other products or services had not been used; (2) any modification or enhancement to the Work Product made by City or anyone other than Consultant or its sub-consultants; or (3) use of the Work Product other than as permitted under this Agreement.

(c) Indemnification Procedures. Not with-standing anything else contained in this Agreement, no obligation to indemnify which is set forth in this Section 14 shall apply unless the party claiming indemnification notifies the other party as soon as practicable to avoid any prejudice in the claim, suit or proceeding of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge and gives the other party the opportunity to control the response thereto and the defense thereof; provided, however, that the party claiming indemnification shall have the right to participate in any legal proceedings to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at such party's cost and expense; provided further, however, that no settlement or compromise of an asserted third-party claim other than the payment/money may be made without the prior written consent of the party claiming indemnification.

(d) Immunity. City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to City, its officers, or its employees.

15. Insurance.

(a) Requirements. Consultant agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance during the term of this Agreement:

(1) The Consultant shall comply with the Workers' Compensation Act of Colorado and shall provide compensation insurance to protect the City from and against any and all Workers' Compensation claims arising from performance of the work under this contract. Workers' Compensation insurance must cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, as well as the Employers' Liability within the minimum statutory limits.

(2) Commercial General Liability Insurance and auto liability insurance (including contractual liability insurance) providing coverage for bodily injury and property damage with a combined single limit of not less than two million dollars ($2,000,000) per occurrence.

(3) Professional Liability/Errors and Omissions Insurance covering acts, errors and omissions arising out of Consultant's operations or Services in an amount not less than one million dollars ($1,000,000) per occurrence.

(4) Umbrella Insurance policy in an amount not less than four million dollars ($4,000,000) per occurrence.

(b) Approved Companies. All such insurance shall be procured with such insurance companies of good standing, permitted to do business in the country, state or territory where the Services are being performed.

(c) Certificates. Consultant shall provide City with certificates of insurance

evidencing compliance with this Section 15 (including evidence of renewal of insurance) signed by authorized representatives of the respective carriers for each year that this Agreement is in effect. Certificates of insurance will list the City of Englewood as an additional insured. Each certificate of insurance shall provide that the issuing company shall not cancel, reduce, or otherwise materially change the insurance afforded under the above policies unless thirty (30) days' notice of such cancellation, reduction or material change has been provided to City.

16. Rights in Work Product.

(a) Generally. Except as specifically agreed to the contrary in any Statement of Work, all Intellectual Property Rights in and to the Work Product produced or provided by Consultant under any Statement of Work shall remain the property of Consultant. With respect to the Work Product, Consultant unconditionally and irrevocably grants to City during the term of such Intellectual Property Rights, a non-exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such Intellectual property Rights.

(b) Know-How. Notwithstanding anything to the contrary herein, each party and its respective personnel and consultants shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other party.

17. Relationship of Parties. Consultant is acting only as an independent consultant and does not undertake, by this Agreement, any Statement of Work or otherwise, to perform any obligation of City, whether regulatory or contractual, or to assume any responsibility for City's business or operations. Neither party shall act or represent itself, directly or by implication, as an agent of the other, except as expressly authorized in a Statement of Work.

18. Complete Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein.

19. Applicable Law. Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in the applicable Statement of Work. This Agreement shall be construed in accordance with the laws of the State of Colorado. Any action or proceeding brought to interpret or enforce the provisions of this Agreement shall be brought before the state or federal court situated in Arapahoe County, Colorado and each party hereto consents to jurisdiction and venue before such courts.

20. Scope of Agreement. If the scope of any provisions of this Agreement is too broad in any respect whatsoever to permit enforcement to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent to and agree that such scope may be judicially modified accordingly and that the whole of such provision of this Agreement shall not thereby fail, but that the scope of such provision shall be curtailed only to the extent necessary to conform to law.

21. Additional Work. After receipt of a Statement of Work, City, with Consultant's consent, may request Consultant to undertake additional work with respect to such Statement of Work. In such event, City and Consultant shall execute an addendum to the Statement of Work specifying such additional work and the compensation to be paid to Consultant for such additional work.

22. Sub-consultants. Consultant may not subcontract any of the Services to be provided hereunder without the prior written consent of City. In the event of any permitted subcontracting, the agreement with such third party shall provide that, with respect to the

subcontracted work, such sub-consultant shall be subject to all of the obligations of Consultant specified in this Agreement.

23. Notices. Any notice provided pursuant to this Agreement shall be in writing to the parties at the addresses set forth below and shall be deemed given (1) if by hand delivery, upon receipt thereof, (2) three (3) days after deposit in the United States mails, postage prepaid, certified mail, return receipt requested or (3) one (1) day after deposit with a nationally-recognized overnight courier, specifying overnight priority delivery. Either party may change its address for purposes of this Agreement at any time by giving written notice of such change to the other party hereto.

24. Assignment. This Agreement may not be assigned by Consultant without the prior written consent of City. Except for the prohibition of an assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

25. Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the parties hereto and shall not confer any rights upon any person or entity not a party to this Agreement.

26. Headings. The section headings in this Agreement are solely for convenience and shall not be considered in its interpretation. The recitals set forth on the first page of this Agreement are incorporated into the body of this Agreement. The exhibits referred to throughout this Agreement and any Statement of Work prepared in conformance with this Agreement are incorporated into this Agreement.

27. Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not effect in any way the full right to require such performance at any subsequent time; nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

28. Force Majeure. If performance by Consultant of any service or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communications failures, earthquakes, war, revolution, civil commotion, acts of public enemies, blockade, embargo or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any governmental or judicial authority or representative of any such government, or any other act whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of Consultant, then Consultant shall be excused from such performance to the extent of such prevention, restriction, delay or interference. If the period of such delay exceeds thirty (30) days, City may, without liability, terminate the affected Statement of Work(s) upon written notice to Consultant.

29. Time of Performance. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

30. Permits. Consultant shall at its own expense secure any and all licenses, permits or certificates that may be required by any federal, state or local statute, ordinance or regulation for the performance of the Services under the Agreement. Consultant shall also comply with the provisions of all Applicable Laws in performing the Services under the Agreement. At its own expense and at no cost to City, Consultant shall make any change, alteration or modification that may be necessary to comply with any Applicable Laws that Consultant failed to comply with at the time of performance of the Services.

31. Media Releases. Except for any announcement intended solely for internal distribution by Consultant or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Consultant, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Consultant or its

employees or agents relating to this Agreement or its subject matter, or including the name, trade mark, or symbol of City, shall be coordinated with and approved in writing by City prior to the release thereof. Consultant shall not represent directly or indirectly that any Services provided by Consultant to City has been approved or endorsed by City or include the name, trade mark, or symbol of City on a list of Consultant's customers without City's express written consent.

32. Nonexclusive Market and Purchase Rights. It is expressly understood and agreed that this Agreement does not grant to Consultant an exclusive right to provide to City any or all of the Services and shall not prevent City from acquiring from other suppliers services similar to the Services. Consultant agrees that acquisitions by City pursuant to this Agreement shall neither restrict the right of City to cease acquiring nor require City to continue any level of such acquisitions. Estimates or forecasts furnished by City to Consultant prior to or during the term of this Agreement shall not constitute commitments.

33. Survival. The provisions of Sections 5, 8(g), 10, 11, 13, 14, 16, 17, 19, 23, 25 and 31 shall survive any expiration or termination for any reason of this Agreement.

34. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:

(a) Employees, Consultants and Sub-consultants: Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Consultant shall not contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) Verification: Consultant will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services. Consultant is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

(c) Duty to Terminate a Subcontract: If Consultant obtains actual knowledge that a sub-consultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall;

(1) notify the sub-consultant and the City within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the sub-consultant if, within three days of receiving notice required pursuant to this paragraph the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

(d) Duty to Comply with State Investigation: Consultant shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5)

(e) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Consultant's breach of any section of this paragraph or provisions required pursuant to CRS 8-17.5-102. Consultant shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph 35.

35. Intergovernmental Agreement. Consultant shall comply with all provisions of the original Intergovernmental Agreement between the City of Englewood and the Regional Transportation District under Schedule B of this professional services agreement.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their authorized officers as of the day and year first above written. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CITY OF ENGLEWOOD, COLORADO

By: _____
(Signature)
Randy P. Penn
(Print Name)

Title: Mayor

Date: _____

ATTEST:

_____
City Clerk – Loucrishia A. Ellis

FELSBURG HOLT + ULLEVIG
(Consultant Name)
6300 S. SYRACUSE WAY, STE 600
Address

CENTENNIAL, CO 80111
City, State, Zip Code

By: _____
(Signature)
ELLIOT SULSKY
(Print Name)

Title: PRINCIPAL

Date: 9-1-14

SCHEDULE A

STATEMENT OF WORK AND FEE SCHEDULE

Englewood Light Rail Corridor Next Steps Study Scope of Work

August 28, 2014

1.0 Project Goals

The key project goals are described as follows:

- Provide a strategic road map of sequential actions local governments can take to foster redevelopment as depicted in the vision of the Englewood Light Rail Corridor Station Area Master Plan.
- Advancing the design of specific transportation improvements in a way that will maximize the potential for project funding and implementation through the DRCOG TIP process, as well as other direct federal grant opportunities.
- Complies with and addresses all of the relevant points articulated within the criteria described by the DRCOG Station Area/Urban Center Studies Eligibility Criteria and the RTD TOD Policy.

2.0 Project Elements

The study will be comprised of the following elements:

- Project Kickoff: Agency Coordination and Public Involvement Plan
- Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy
- Englewood Transportation Improvements: Alternatives Development, Design, and Evaluation
- Sheridan Transportation Improvements: Alternatives Development, Design, and Evaluation

3.0 Scope of Work

This section establishes the Englewood Light Rail Corridor Next Steps Study Consultant's (the Consultant's) individual task responsibility. A draft schedule of major tasks is attached.

3.1 Project Kickoff: Agency Coordination and Community Engagement Plan

The Consultant shall develop an Agency Coordination and Community Engagement Plan that will encompass agency coordination and community engagement for the Englewood Comprehensive Plan Update, Light Rail Corridor Next Steps Study, and Walk and Wheel Master Plan Program. The Consultant shall work in coordination with the Englewood Comprehensive Plan Update and Walk and Wheel Master Plan Program Consultants to combine objectives and tools for public outreach efforts along with a master detailed schedule.

The Agency Coordination and Community Engagement Plan shall at a minimum include:

- Identification of and consultations with agencies having an interest in the study area in order to identify critical issues and problems in need of resolution
- Identification of community leaders, elected officials, and key community groups and recommended level and means of involvement in the study by those identified
- Recommendation of the proper level and means of involvement in the study by the public
- Identification of planned community events in the corridor that are scheduled during the study
- Description of participation methods, objectives, and where each fits into the schedule
- Establishment of meeting dates, times, and venues in coordination with City Project Manager
- Establishment of parameters for a project website.

The Agency Coordination and Community Engagement Plan will be submitted to Englewood and Sheridan twice (2) (Draft and Final versions) for review and revisions will be made, as appropriate.

Agency Coordination and Community Engagement will consist of the following elements:

- Logo/Templates: The Englewood Comprehensive Plan Update Consultant shall produce a logo and templates to give a similar look and feel between online and print materials across all projects. Development of the templates will include fonts and color scheme. The Englewood Comprehensive Plan Update Consultant shall develop templates for the website, postcard, boards, and electronic newsletter (e-newsletter).
- Website: The Englewood Comprehensive Plan Update Consultant shall support the Consultant with development of the project website. The website shall be built using a CMS (Content Management System), such as Word Press. The Consultant shall generate posts on their individual project page. The Englewood Comprehensive Plan Update Consultant shall set up the initial base page, set up each project page and a coordinated calendar, and provide general support. The calendar shall appear on each project page. The City of Englewood will provide a landing page to host a short overview of the three projects and the link to the website.
- Postcard: Using the template created, the Consultant shall produce content for the initial postcard mailing. The postcard will introduce the coordinated planning effort occurring throughout Englewood over the next year, direct interested parties to the website to provide contact information for future project updates and meeting notifications. The Consultant shall collect and manage the contact database as described below. The Cities of Englewood and Sheridan will be responsible for generating a mailing list based on assessor data as well as print and mail the postcards during the project initiation phase. The City of Englewood will be responsible for the printing and mailing of the postcard.
- Survey Development: The Englewood Comprehensive Plan Update Consultant shall construct and manage the online surveys. Content for the online surveys will be provided by the Consultant. Three surveys will be conducted for each project over the year with an option to consolidate surveys especially during the data collection phase. The Englewood Comprehensive Plan Update Consultant shall coordinate with the other project teams to develop surveys and provide a report of data at the close of the survey. A survey link will be provided to post on the websites and e-newsletters.
- E-Newsletter: The Consultant shall produce and distribute four (4) e-newsletters throughout the year long planning process. Each project team will provide a project update summary paragraph, a synopsis of public involvement, links to additional info on their project webpage, and dates of the next public event (if available).
- Public Meeting Logistics: Three consolidated public outreach events will be organized occurring roughly in November, February and May. The Englewood Comprehensive Plan Update Consultant, the Walk and Wheel Master Plan Program Consultant, and the Consultant shall each be responsible for coordinating meeting logistics for one of the public events. The events should strive to include alternative and interactive methods of public involvement. This shall be the responsibility of the lead consultant for that meeting. The meeting format shall be shared with the other Consultants and each Consultant shall develop materials for their project.
- Contact Database-Stakeholder/Public: The Consultant shall establish at the beginning of the project a contact database in either Excel or Access depending upon the volume of contact information obtained. E-mail addresses shall be collected from interested parties and residents

via the website. The contact database also will consist of key members of the community, boards and commissions, government agencies, developers, local businesses, etc. The city, as well as each consultant team, shall aid in developing a complete list of stakeholders and providing contact information. The Consultant shall provide a link to be posted on the website and other materials so that interested parties can sign up to receive notifications throughout the project.

- Press Releases/Ads: Draft content for four (4) press releases will be provided to the Cities of Englewood and Sheridan by the Consultant for the city to finalize, format and distribute. If needed, paid advertisements will also be used to promote public events and key milestones. The Consultant shall determine the format and draft content of the advertisements for the Cities of Englewood and Sheridan to produce and place with the appropriate media.
- Neighborhood Outreach/Business Walk-Abouts: The Consultant shall conduct two (2) to three (3) informal outreach sessions within the adjacent neighborhoods for residents and business owners/managers. Prior to the sessions, the Consultant shall conduct walk-abouts, visiting business owner/managers in the study area to obtain contact information, to provide project related information and to solicit their input, concerns and suggestions.
- Community Event Participation/Travelling Townhall: The Consultant shall participate in two (2) to three (3) community events to gather input and opinions on key issues. A presence at various community events and festivals scheduled during the study will include an eye-catching exhibit of project maps and displays. The public will also have a chance to weigh-in via a survey/questionnaire to capture their input and opinions of specific questions that will help guide plan development.
- Land/Property Owner Outreach: The City of Englewood will provide the contact list of property owners from the previous station area planning study. The Consultant shall focus on property owners who own key parcels that may represent redevelopment opportunities in the vicinity of key focus areas (such as, around the Oxford station, to the west side of Santa Fe across from the Englewood station, and property owners south and east of Hampden and Santa Fe). The Consultant will coordinate the Cities of Englewood and Sheridan staff and other contacts (such as the Chamber of Commerce perhaps) to gain contact information for these individuals. These individuals will be contacted by phone to set up an in person meeting.
- Developer Roundtable: The Consultant shall convene a roundtable or forum of potential or prospective developers from around the metro area, as well as developers familiar with the Englewood market, to discuss the findings of the market study for the four study areas in Englewood and to gain input on how to potentially move forward with implementation of development concepts for each of the four study areas.
- Agency Kick-off: The Consultant shall conduct an Agency Kick-off meeting. Agencies with an interest and/or stake in the project will be identified and contacted with a request for participation in a project kickoff workshop. Agencies will be involved to ensure: Agencies participating in the kickoff workshop may include, but are not limited to: City of Englewood staff, City of Sheridan staff, Elected officials from the cities of Englewood and Sheridan and from Arapahoe County, Denver Regional Council of Governments (DRCOG), Regional Transit District (RTD), City of Englewood Transportation Advisory Committee, City of Englewood Urban Renewal Authority, Arapahoe County staff, Colorado Department of Transportation (CDOT), Federal Highway Administration (FHWA), and Railroad representatives. The Agency Kickoff Workshop discussions will focus on:

  - Site tour for firsthand understanding of the project and key issues
  - Understanding agency expectations, roles and responsibilities
  - Community values expressed by the agencies
  - Project scope and team communications
  - Vision statement and objectives
  - Major screening criteria
  - Identifying recommended implementable projects and phasing
  - Community Engagement Plan
- Project Management Team: The Project Management Team, composed of the Cities of Englewood and Sheridan's technical staff, will meet on a monthly basis for the duration of the project. There will be twelve (12) meetings that will be the forum for addressing project challenges and opportunities. Meeting agendas, associated materials and summaries will be prepared for each meeting.

Deliverables:

- Agency Coordination and Community Engagement Plan
- Documentation of all public inquiries, responses, events, meetings, etc.

3.2 Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy

The Real Estate Development Feasibility Analysis will assess the development potential for transit-oriented, multi-unit residential development for four distinct areas, taking into consideration the following items for analysis:

- Economic Overview
- Site and Location Analysis
- Market Assessment (supply, demand, and projected absorption; development concept and market fit; product mix and positioning; competitive position of project site)

The Consultant shall conduct a market study evaluating the existing and potential market for office, retail, residential, business park / industrial, lodging, and entertainment land uses within the four project areas (Englewood Station – West Neighborhood; Englewood Station – CityCenter Englewood Neighborhood; Oxford Station – South Neighborhood; and Bates Station – North Neighborhood) based upon an examination of existing demographic and market data and the position of the Englewood area in the south suburban and greater Denver trade areas. The four project areas include:

- Englewood Station – West Neighborhood: The West Neighborhood is located between Dartmouth and Hampden Avenue on the north and south, and Santa Fe Drive and Zuni Street on the east and west, and includes the South Platte River. The area is currently developed with industrial uses and is not directly connected to the Englewood Station.
- Englewood Station – CityCenter Englewood Neighborhood: The Englewood Light Rail Corridor Plan envisioned the development of additional multi-unit residential developments immediately adjacent to the Englewood Station over current RTD and City parking areas.
- Oxford Station – South Neighborhood: The Englewood Light Rail Corridor Plan envisioned the development of two parks located north and south of Oxford Avenue that would serve to attract higher quality multi-unit residential housing, including for sale units.
- Bates Station – North Neighborhood: The Bates Station-North Neighborhood primarily consists of the Winslow Crane and General Iron Works properties. Planned Unit Developments were

recently approved for both properties that allow redevelopment for multi-unit residential use, without establishing site plans.

The findings of the market investigation will inform the resulting marketing and implementation strategy for the study, and the four distinct study areas. The market investigation will include the following components:

- Demographic Analysis and Economic Overview: The Consultant shall complete an overview of the existing demographic and economic factors impacting the future land uses in the four study areas (including population, household income, psychographics, etc.) in order to inform the market investigation.
- Site Location and Analysis: The Consultant shall examine and document the site analysis factors that impact the development potential of each of the four study areas included in the project. The Consultant shall examine the physical characteristics (slope, grade, aesthetic considerations) as well as transportation and connectivity factors that impact the viability of each study area. In addition, the Consultant shall examine the development suitability of each study area in terms of parcel size and dimension, floodplain and drainage issues, visibility, and related planning factors. The Consultant shall examine the viability and development potential of each of the four sites in terms of location, relative to adjacent parcels and areas within Englewood, and in terms of location in the broader market.
- Land/Property Owner and Private Real Estate Developer Outreach: The Consultants discussions with these property owners or their representatives will encompass a discussion of local market conditions, potential opportunities for development or redevelopment of various properties, and the Strengths, Weaknesses, Opportunities, and Threats (SWOT) for each of the four study areas.
- Competitive Analysis: The Consultant shall complete an analysis of the competitive districts impacting the four study areas and Englewood in general (both in terms of retail, office, and residential land uses in the Englewood area per se, as well as competing districts and sub-areas elsewhere in metro Denver such as the Downtown Littleton area, Denver Tech Center, Belmar, etc.). The Consultant shall document existing competitors as well as potential competitors in the local marketplace, based upon discussions with local planning officials and real estate brokers and developers.
- Comparable Project Analysis: The Consultant shall provide profiles of up to three comparable districts or projects (primarily in Western U.S. metropolitan markets) that Englewood may use going forward in planning for the future implementation and marketing of the four study areas. For each comparable district profile, the Consultant shall highlight recent development successes, the mix of tenants, the mix of land uses, and how the districts integrated any civic uses and related amenities in order to drive real estate success.
- Demand, Absorption and Positioning Recommendation: Based upon the findings of the market investigation, the Consultant will provide a projection of future demand and absorption by land use in terms of square feet or residential units (for retail, residential, office, lodging, business park / industrial, and entertainment uses) for the 5-year, 10-year, and 20-year timeframes, for each of the four study areas. The Consultant's overall recommendations will provide conclusions for the City concerning the recommended positioning of the four study areas over the short term and long term. The findings of the analysis will assist the community and city staff in positioning the four study areas going forward, as part of implementation. For each of the four

study areas and the various parcels located within the study areas, the Consultant shall outline recommended development concepts and market fit and recommended product mix and positioning (including potential "mixed use" concepts in line with previous plans for the study area and input from the broader community and stakeholders). The Consultant shall summarize the competitive positioning of each project site in the Englewood area and the broader suburban market.

The Real Estate Marketing/Implementation Strategy will evaluate various development strategies for the four distinct areas, including incremental parcel development by multiple owners versus a master development by a single owner-developer or joint partnership involving multiple shareholders. The implementation strategy will also address possible sources of revenue and financing for the key transportation improvements previously identified, as well as ancillary streets, utilities, and parks. Finally, the implementation strategy will outline marketing strategies, project triggers, and a realistic timeline for development.

The Consultant shall examine various development strategy options for the four study areas, ranging from incremental parcel development by multiple owners, to master development by a single entity, to a joint venture involving multiple stakeholders (including, potentially, the City). The Consultant shall identify public investments or actions that will help catalyze development interest. The Consultant shall outline potential funding and financing strategies for various public improvements identified during the planning effort, including streets, utilities, and parks. This process will allow the city and stakeholders to generally compare the costs of key transportation and related improvements with the potential development that could move forward in each of the four study areas. The Consultant shall also outline priorities, immediate action items, implementation steps, general marketing strategies, and triggers for various development components and infrastructure improvements, for each of the four study areas. The strategy will also outline a realistic timetable for development.

This market study will not include a detailed tenanting plan. The deliverable will provide estimates of future demand and provide takeaways for the City from the market investigation that will inform the overall planning effort.

The Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy will be conducted for the following transit-oriented development areas envisioned in the Englewood Light Rail Corridor Station Area Master Plan:

<u>Deliverables</u>

- Market Investigation report documenting research conducted as part of the economic analysis and providing takeaways and conclusions that inform the development of a marketing/implementation strategy for the four study areas.
- Memorandums and spreadsheets illustrating the potential viability of various development scenarios (master developer, JV, etc.) and summarizing the funding and financing sources for various infrastructure and improvement components included in the plan.
- Memorandum outlining the recommended marketing strategies for the four study areas in Englewood.

3.3 Study Area Data Collection and Conditions Assessment

The Consultant shall conduct a Study Area Data Collection and Conditions Assessment. Recent aerial photography (2012 with six-inch pixels) of the study area will be used as base mapping for all physical analyses. The Cities of Englewood and Sheridan and other GIS database information (right-of-way,

parcels, land use, contours, flood plains, municipal utilities, pavement and sidewalks, business locations, electric transmission, and hazardous materials sites) will be field checked by the Consultant.

The Study Area Data Collection and Conditions Assessment shall include a number of the following items to inform the transportation alternatives development, design, and evaluation process.

- Collection and consolidation of crash data and traffic counts (including truck traffic) to be used for the safety and operational analyses. Available travel data will be obtained from CDOT, DRCOG, RTD, Englewood and Sheridan data bases, including traffic counts and transit ridership data. All Traffic Data Services, Inc. will be engaged to supplement available data with traffic volume counts (cars, trucks, buses, bicyclist, and pedestrians) for 24-hour periods on major area roadways and peak-hour turning movements at key intersections.
- Documentation of the existing and planned transportation system in the study area including highway through and auxiliary lanes, right-of-way and access; arterial lanes and access; transit types/service levels including station locations, routes and frequency, safety records and ridership and major concentrations of riders. The document shall also include bicycle and pedestrian facilities, planned and existing intermodal connection facilities and stations, as well as major utilities
- Documentation of the travel markets that use the transportation system to establish geographic locations of trip origins and destinations, trip purpose (Commuter/Non-commuter trips), local versus regional trips, and average length of trip
- Summarization of land use and modeling data as provided by the DRCOG travel demand model
- Summarization of current and future traffic operations for both the AM and PM peak hours
- Estimation of future travel demands
- Identification of distinct segments of each corridor which share distinguishing urban traits, adjacent land use characteristics and existing roadway conditions
- Summarization of current roadway features including lane configurations, roadway and right-of-way widths and adjacent land ownership characteristics, building set-backs, utility and environmental concerns
- Illustration of the typical existing cross section for each discrete segment of each corridor and an assessment of the operational and safety adequacy of that cross-section based on both existing and future (2035) travel demands
- Development of an Environmental Overview. The following environmental resources are considered as essential resources for study and documentation. The Consultant shall conduct a "windshield survey" of the project corridor and utilize existing data from previous studies conducted in the area and readily available environmental data from federal, state, and local databases. This list is not all-inclusive and is subject to change based on meetings with project stakeholders
    1. Land Use
    2. Floodways and 100-year floodplain boundaries
    3. Parks and Recreational Resources
    4. Historic Resources

5. Hazardous Substances
6. Wetlands and Other Waters of the US
7. Wildlife/Threatened and Endangered Species

- Documentation of the list of issues that resulted from contacts with stakeholders and general knowledge of the study area to identify a list of key needs
- Preparation of a preliminary list of existing and anticipated deficiencies in the study area. The list should describe the existing or anticipated deficiencies in the transportation system and the growth or changing needs in the study area along with an estimate as to the timeframe in which deficiencies will occur

Deliverables:

- Study Area Data Collection and Conditions Assessment and Environmental Scan sections will be included in the draft and final Englewood Light Rail corridor Next Steps study report.

3.4 Alternatives Development, Evaluation and Design

Key transportation improvement implementation projects identified in the Englewood Light Rail Corridor Station Area Master Plan for further evaluation are listed below:

- Rail Trail – includes trail alignment and bridges
- Oxford, Dartmouth, Clarkson Protected Bikeway Loop
- Southwest Greenbelt Trail Improvements and Extension
- Floyd Avenue Extension
- Englewood Parkway Extension and Bus Transfer/Piazza Redesign
- Englewood Station Platform Shelter

The neighboring City of Sheridan has requested to participate in the Englewood Light Rail Corridor Next Steps Study as a secondary partner to the City of Englewood in order to evaluate two additional projects that were not identified in the original Englewood Light Rail Corridor Station Area Master Plan.

- Oxford Avenue Protected Bikeway - Oxford Station to Fort Logan
- Oxford Station Pedestrian Bridge/Tunnel – Station Connection to west side of Santa Fe Drive

Additional connectivity alternatives may be identified during the study, and they will be evaluated along with the previously identified projects. Although the Consultant will track the alternative development, evaluation, and design efforts separately for the City of Englewood and City of Sheridan's projects separately, both efforts will follow a similar process, as outlined below.

3.4.1 Alternatives Development

This task will focus on developing and evaluating alternatives to resolve four primary challenges: real estate feasibility, multimodal connectivity to the CityCenter and Oxford Avenue LRT Stations, engineering feasibility, and urban design/aesthetics.

- Real Estate Feasibility: Based upon the findings of the market investigation, the Consultant shall evaluate the alternatives to assist the community and city staff in understanding how the accessibility, visibility and urban character benefits of various alternatives will spur development, positioning the four study areas going forward.

- Multimodal Connectivity: Improvement alternatives will be developed and assessed for their anticipated benefits to multimodal connectivity and accessibility, both relative to existing land uses and to desired new development. A series of evaluation measures will be developed and each alternative will be evaluated and refined based on criteria such as improved accessibility for pedestrians, bicycles, autos and buses; improved safety, particularly for pedestrians and bicyclists; anticipated usage level; effect on transit ridership; and travel time reductions for each travel mode.
- Engineering Constructability: The Consultant shall complete basic engineering for the alternatives to be evaluated. This basic engineering generally will be to a conceptual level of design (5 percent), except in the case of the Rail Trail from the Big Dry Creek Trail to the Oxford Station, which will be to a preliminary level of design (30 percent). No additional survey will be performed. To minimize cost, the alternatives will be designed using the 2-foot contours included in the 2010 Denver Regional Aerial Photography Program (DRAPP), which is available for the Denver metropolitan area.
- Urban Design/Aesthetics: The Consultant shall outline urban design and general planning concepts for the various transportation and public improvements outlined in the Next Steps study, as well as the necessary urban design concepts and strategies underlying the development of development concepts for each of the four study areas. The Consultant shall create conceptual urban design and planning recommendations that embody the following place making principles:
    - Pedestrian connections (sidewalks, ramps, crosswalks)
    - Streetscape (including, streetscape concepts for retail streets, versus office oriented streets, versus residential oriented streets)
    - Bicycle connections
    - Orientation and locations of buildings
    - Orientation and locations of parking and connections to and from parking
    - Facilities and connections for transit (including bus stops, and connections to light rail platforms)

3.4.2 Alternatives Evaluation

The Consultant shall conduct the alternatives analysis in a manner that can be easily incorporated into any future PEL or NEPA documentation for these projects – specifically to be able to facilitate a number of potential funding sources for these transportation improvements. Since the goal is to avoid having to redo work, and to facilitate eligibility for federal and state funding sources, such as DRCOG TIP funds, the Consultant shall complete FHWA's PEL Questionnaire to ensure a smooth transition from the Englewood Light Rail Corridor Next Steps Study to any future PEL or NEPA work.

The Consultant shall conduct a two-step evaluation process through which the level of analysis detail will become greater as the number of alternatives for each transportation improvement element is reduced. Five basic measures are suggested as a starting point to evaluate alternative (multimodal connectivity effectiveness, land use consequences, economic feasibility, constructability, and environmental feasibility). This evaluation is intended to identify the challenges and constraints of the process and provide a coherent basis for selecting alternatives.

An evaluation process will be developed that documents the analysis and findings for the alternatives and the extent to which each alternative can achieve the project objectives. The potential impacts of each alternative on important environmental resources and feasibility regarding environmental issues and regulations will also be examined. Conceptual avoidance and minimization measures will be developed following the identification of impacts and concerns. Potential fatal flaws will be analyzed in detail. Economic development potential, access management possibilities, environmental impacts, as well as with other qualitative and quantitative measures will be analyzed for each alternative.

3.4.3 Conceptual Design and Cost Estimates

Conceptual design will include roadway horizontal and vertical alignment, grading to determine storm drainage runoff, and water quality requirements as well as identifying major utility relocates and locations of any required retaining walls. Design will also identify required right-of-way. Conceptual-level construction and right-of-way (using assessed values) cost estimates will be prepared for comparison of selected alternatives, as appropriate. More detailed cost estimates will be prepared for the final, selected alternatives based on refined conceptual design. Cost estimates will be calculated by quantifying and applying current unit prices to major construction pay items such as paving, sidewalks, excavation and backfill, major utility relocation and storm drainage, then applying contingencies for items such as lighting, storm water management, environmental and construction traffic control. Right-of-way cost estimates will be developed in close coordination with City staff and will use appraised values and other data as a basis.

Deliverables:

- Alternatives Development, Evaluation, and Design sections will be included in the draft and final Englewood Light Rail corridor Next Steps study report.
- Rail Trail – 30 percent Preliminary Plans and Cost Estimate
- Oxford, Clarkson, and Dartmouth Protected Bikeway – Five (5) percent conceptual plans and Cost Estimate
- Oxford Station Pedestrian Bridge/Tunnel - Five (5) percent conceptual plans and Cost Estimate
- Southwest Greenbelt Trail Improvements and Extension - Five (5) percent conceptual plans and Cost Estimate
- Englewood Parkway/Floyd Avenue Extension - Five (S) percent conceptual plans and Cost Estimate
- Bus Transfer/Piazza Redesign - Five (5) percent conceptual plans and Cost Estimate
- Englewood Station Platform Shelter - Five (5) percent conceptual plans and Cost Estimate

3.5 Action Plan/Funding Strategy

The Consultant shall work with the Cities of Englewood and Sheridan to identify and prioritize projects for a range of funding scenarios to ensure that the corridor is getting maximum benefit for the available dollar and that the transportation improvements in the corridor will serve as a catalyst for other community investment to create an economically thriving and civically vibrant corridor.

The Consultant shall investigate various federal and state funding mechanisms, such as the Transportation Alternatives Program (TAP), FASTER, RAMP, STP metro, etc., that can be used in part or combination to develop larger project packages. Other options, such as BIDS, TIFs, and newer federal programs, such as Livable Communities, also will be reviewed for applicability on the corridor. In

addition to transportation focused funding sources, the team will explore and recommend potential funding sources for urban design and aesthetic enhancement activities including business façade improvements, signage, landscaping, benches, etc., in order to complete transportation improvements being planned in the corridor. CDOT enhancement funding, funds generated from urban renewal, City sources, small business resources, special districts specifically established to fund public improvements along the corridor, future redevelopment, grants and loan funds are potential mechanisms.

3.6. Englewood Light Rail Corridor Next Steps Study Report

The Consultant shall prepare an Englewood Light Rail Corridor Next Steps Study report with following sections:

- Study Area Data Collection and Conditions Assessment
- Environmental Scan
- Alternatives Design, Analysis, and Evaluation
- Action Plan
- Funding Strategies
- FHWA PEL Questionnaire

The Agency Coordination and Community Engagement Plan will be submitted to Englewood and Sheridan twice (2) (Draft and Final versions) for review and revisions will be made, as appropriate.

3.7 Project Control/Design Management Approach

The Consultant shall submit monthly cost and schedule reports to enable project monitoring. The contract budget and schedule shall be regarded as the baseline against which status and progress are measured and reported.

The Consultant and the City of Englewood Project Manager shall meet at least monthly to review the cost, schedule status and progress of the work, as well as address unanticipated problems and potential solutions. Twelve (12) monthly progress meetings with the City of Englewood Project Manager and the Consultant will be held.

The Consultant shall submit working and final drafts on all work products in a timely manner to allow for adequate review and revision prior to final submittal schedules. The Consultant invoices shall be prepared to show cost against major milestone tasks.

Deliverables:

- Contract budget and schedule
- Monthly progress report
- Payment and review milestones

Englewood Light Rail Corridor Next Steps Study

COLLABORATIVE SCHEDULE - PRELIMINARY DRAFT

Project Task	2014				2015							
	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Project Initiation	●											
Joint Agency Coordination and Community Engagement Plan												
Project Kick-off Postcard Mailing (Englewood)												
Joint Website (Englewood Comp. Plan Update Consultant)												
Joint Electronic Newsletters												
Joint Contact Database Management												
Study Area Data Collection and Conditions Assessment		●										
Agency Kick-Off Meeting		▲	●	★								
Real Estate Feasibility and Market Analysis				●								
Developers Round Table (DW/Arland)					▲							
Joint Neighborhood and Business Outreach/Walkabouts					●	★						
Marketing Implementation Strategy						●						
Land/Property Owner Outreach							●		★ ■			
Alternatives Development								●				
Alternatives Evaluation									●			
Alternatives Design										●		
Action Plan											●	
Final Study Report												●

Joint Steering Committee/Project Management Team Meetings ●

Joint Public Meeting ★

Joint Community Event Participation/Travelling Townhall ■

*Meeting dates are tentative. Actual event date to be determined.

Station Area Master Plan: Englewood Light Rail Corridor Next Steps Study
Felsburg Holt and Ullevig
Fee Schedule

Task	Company	Title	Individual	Rate	Hours	Cost
Agency Coordination/Community Engagement	Bachman PR	Principal	Lisa Bachman	$ 150	185	$27,750
					Subtotal	$27,750
Real Estate Market and Development Implementation Strategies	Arland LLC	Principal	Arleen Taniwaki	$ 155	130	$20,150
	Design Workshop	Associate	Britt Palmberg	$ 150	180	$27,000
	Design Workshop	Principal	Jim MacRae	$ 250	12	$3,000
					Subtotal	$50,150
Study Area Data Collection and Conditions Assessment	Felsburg Holt & Ullevig	Principal II	Elliot Sulsky	$ 195	8	$ 1,560
	Felsburg Holt & Ullevig	Associate	Kevin Maddoux	$ 165	40	$ 6,600
	Felsburg Holt & Ullevig	Trans Planner II	Shea Suski	$ 95	80	$ 7,600
	Felsburg Holt & Ullevig	Trans Planner IV	Cady Dawson	$ 125	40	$ 5,000
	Felsburg Holt & Ullevig	Engineer II	Gabrielle Renner	$ 95	40	$ 3,800
	Felsburg Holt & Ullevig	GIS Specialist	Todd Lebov	$ 80	40	$ 3,200
	Felsburg Holt & Ullevig	Env Scientist IV	Laura Haas	$ 125	40	$ 5,000
	Felsburg Holt & Ullevig	Env Scientist V	Jessica Myklebust	$ 140	16	$ 2,240
	Felsburg Holt & Ullevig	Env Scientist V	Allison Sambol	$ 125	16	$ 2,000
					Subtotal	$ 37,000
Alternatives Development and Design	**City of Sheridan Alternatives Evaluation**					
	Design Workshop	Principal	Jim MacRae	$ 250	8	$ 2,000
	Design Workshop	Associate	Britt Palmberg	$ 150	8	$ 1,200
	Design Workshop	Planner	Anna Cawrse	$ 90	24	$ 2,160
	Toole Design Group	Senior Engineer	Jessica Juriga/Bill Schultheiss	$ 147	16	$ 2,352
	Toole Design Group	Landscape Architect	Anthony Pratt	$ 90	28	$ 2,520
	Toole Design Group	Engineer	Jessica Mortell	$ 75	50	$ 3,750
	Felsburg Holt & Ullevig	Principal II	Elliot Sulsky	$ 195	20	$ 3,900
	Felsburg Holt & Ullevig	Associate	Kevin Maddoux	$ 165	20	$ 3,300
	Felsburg Holt & Ullevig	Engineer IV	Kat Duitsman	$ 125	80	$ 10,000
	Felsburg Holt & Ullevig	Senior Engineer	Bill Marcato	$ 160	20	$ 3,200
	Felsburg Holt & Ullevig	Senior Engineer	Stephanie Sangaline	$ 160	8	$ 1,280
					Subtotal	$ 35,662
	City of Englewood Alternatives Development and Design					
	Design Workshop	Principal	Jim MacRae	$ 250	32	$ 8,000
	Design Workshop	Associate	Britt Palmberg	$ 150	16	$ 2,400
	Design Workshop	Planner	Anna Cawrse	$ 90	40	$ 3,600
	Toole Design Group	Senior Engineer	Jessica Juriga/Bill Schultheiss	$ 147	22	$ 3,234
	Toole Design Group	Landscape Architect	Anthony Pratt	$ 90	100	$ 9,000
	Toole Design Group	Engineer	Jessica Mortell	$ 75	106	$ 7,950
	Walker Parking Consultants	Parking Consultant	Steffen Turoff	$ 185	40	$ 7,400
	Felsburg Holt & Ullevig	Principal II	Elliot Sulsky	$ 195	20	$ 3,900
	Felsburg Holt & Ullevig	Associate	Kevin Maddoux	$ 165	20	$ 3,300
	Felsburg Holt & Ullevig	Engineer IV	Kat Duitsman	$ 125	160	$ 20,000
	Felsburg Holt & Ullevig	Senior Engineer	Bill Marcato	$ 160	60	$ 9,600
	Felsburg Holt & Ullevig	Senior Engineer	Stephanie Sangaline	$ 160	32	$ 5,120
					Subtotal	$ 83,504
Alternatives Evaluation	**City of Sheridan Alternatives Evaluation**					
	Design Workshop	Principal	Jim MacRae	$ 250	4	$ 1,000
	Design Workshop	Associate	Britt Palmberg	$ 150	5	$ 750
	Design Workshop	Planner	Anna Cawrse	$ 90	8	$ 720
	Felsburg Holt & Ullevig	Principal	Elliot Sulsky	$ 195	8	$ 1,560
	Felsburg Holt & Ullevig	Associate	Kevin Maddoux	$ 165	24	$ 3,960
	Felsburg Holt & Ullevig	Trans Planner II	Shea Suski	$ 95	40	$ 3,800
					Subtotal	$ 11,790
	City of Englewood Alternatives Evaluation					
	Design Workshop	Principal	Jim MacRae	$ 250	12	$ 3,000
	Design Workshop	Associate	Britt Palmberg	$ 150	5	$ 750
	Design Workshop	Planner	Anna Cawrse	$ 90	12	$ 1,080
	Felsburg Holt & Ullevig	Principal	Elliot Sulsky	$ 195	8	$ 1,560
	Felsburg Holt & Ullevig	Associate	Kevin Maddoux	$ 165	56	$ 9,240
	Felsburg Holt & Ullevig	Trans Planner II	Shea Suski	$ 95	80	$ 7,600
					Subtotal	$ 23,230
Action Plan / Funding Strategy	Design Workshop	Associate	Britt Palmberg	$ 150	16	$2,400
	Felsburg Holt & Ullevig	Principal	Jenny Young	$ 175	40	$7,000
	Felsburg Holt & Ullevig	Env Scientist IV	Laura Haas	$ 125	40	$5,000
					Subtotal	$14,400
					Labor Total	$283,486
			Plots/sq ft	$ 0.24	500	$120
			Prints (Color)	$ 0.19	2000	$380
			Presentation Boards/sq ft	$ 1.22	500	$610
			Travel (Mileage)	$ 0.56	500	$280
			Vendors (All Traffic Data)	$ 5,000	1	$5,000
					Other Direct Costs (Total)	$6,390
					Total	$289,876

SCHEDULE B

INTERGOVERNMENTAL AGREEMENT

SCHEDULE B

STATION AREA MASTER PLAN: ENGLEWOOD LIGHT RAIL CORRIDOR NEXT STEPS STUDY CITY OF ENGLEWOOD, COLORARDO

INTERGOVERNMENTAL AGREEMENT

by and between

CITY OF ENGLEWOOD
1000 Englewood Parkway
Englewood, CO 80110

and

REGIONAL TRANSPORTATION DISTRICT
1600 Blake Street
Denver, Colorado 80202

This Intergovernmental Agreement, made this ____ day of _____, 2014 (the Agreement), between the Regional Transportation District (RTD), a political subdivision of the State of Colorado, and City of Englewood, a Colorado home rule municipality (City), collectively referred to as the "Parties" or individually as "Party", is to provide funding assistance for the development of a Station Area Master Plan Next Steps Study (Plan) for the area designated as the Bates, Englewood, and Oxford Station areas located adjacent to the Southwest Light Rail Transit Line. The project area is identified in Exhibit A.

RECITALS:

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

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

- Provides a strategic road map of sequential actions local governments can take to foster redevelopment as depicted in the vision of the Englewood Light Rail Corridor Plan.
- Advances the design of specific transportation improvements in a way that will maximize the potential for project funding and implementation through the DRCOG TIP process, as well as other direct federal grant opportunities.
- Complies with and addresses all of the relevant points articulated within the criteria described by the DRCOG Station Area/Urban Center Studies Eligibility Criteria and the RTD TOD Policy.

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

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

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

NOW, THEREFORE, it is hereby agreed that:

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

2. Funding. Funding for the development of the Plan shall be provided through a Congestion Mitigation and Air Quality (CMAQ) grant (Grant) from the Federal Highway Administration (FHWA) through the FTA and administered by RTD. It is anticipated that the Grant available to RTD for the development of the Plan will be Two Hundred and Forty Thousand Dollars ($240,000). In no event shall RTD be responsible for payment of funds for the development of the Plan in any amount greater than that received through the Grant. In no event shall federal funding exceed 80 percent of the net project cost. If the amount of Grant funds received by RTD is less than Two Hundred Forty Thousand Dollars ($240,000), the City may, at its discretion, (i) pay additional local match funds; (ii) reduce the scope of work for the development of the Plan; or (iii) terminate the Plan and this Agreement as set forth below. Unless the City determines to expend additional funds for the development of the Plan, the City shall contribute Fifty Thousand Dollars ($50,000) in local match funds for the Plan, plus Ten Thousand Dollars ($10,000) of in-kind project management billable hours. All local match funds must be provided from sources other than federal Department of Transportation (DOT) funds. Any additional funds required for the development of the Plan over and above the Grant funds received by RTD and committed local match funds shall be the responsibility of the City. The City shall use the funds solely for eligible purposes defined under Section 5307 and FTA Circular 9030.1E, as they may be amended, promulgated or updated from time to time during the term of this Agreement.

Englewood Light Rail Corridor Next Steps Study Project Funding Summary:

Funding Source	Amount
Federal Grant Share	$ 240,000
City Local Match Share	$ 50,000
City Local In-Kind Project Management Share	$ 10,000

Total	$ 300,000

3. City Local In-Kind Project Management Share Accounting. The City Project Manager will track hours spent managing the project calculated by the City Project Manager's hourly salary and benefit rate of $42.90 per hour, in order to account for the City Local In-Kind Project Management Share contribution of Ten Thousand Dollars ($10,000) to the Project.

4. Project Accounting. Expenditure of funds from the Grant will be documented separately by the City and Consultant (as defined in Section 5) to ensure dollars spent coincide with task deliverables assignable to each funding source.

5. Scope of Work. The scope of work (Scope) and cost for the development of the Plan are shown in Exhibit D. No changes to the Scope shall be made without prior written agreement between the Parties.

6. Consultant. The City shall issue a Request for Proposals to engage one or more consultants (Consultant) to develop the Plan. The City shall choose the Consultant after considering the recommendation of a committee consisting of representatives from the Parties. (Committee). The Parties shall each be entitled to review the form of Consultant's contract prior to award, and RTD shall advise the City of changes necessary to comply with the Grant or other RTD requirements, including but not limited to required contract clauses for federally assisted subcontracts and third party contracts as shown in Exhibit E. Compliance by City, Consultant and any other Plan contractors and subcontractors with RTD required contract clauses for federally assisted subcontracts and third party subcontracts, and other requested changes by RTD, shall be a condition of receipt of Grant funding through RTD for the development of the Plan. The City and Consultant shall be the parties to the consulting contract; and the City, as the contracting agency, shall have authority for administration of the Consultant's contract.

7. Review. The City shall manage all work performed by any Consultant for the development of the Plan. RTD shall have the opportunity to review and comment upon all documents, drawings, exhibits, etc., produced by the Consultant as part of the Plan, including preliminary drafts. RTD shall withhold payment of the last ten percent (10%) of the Grant funding until it has had an opportunity to provide comments on the final draft of the Plan, prior to adoption by the City. Any property or information provided by RTD for the Plan remains the property of RTD and shall be returned to RTD upon completion of the development of the Plan. RTD shall be entitled to receive electronic copies of all reports, drawings, data, and other material produced or collected in electronic format by the Consultant at no additional cost.

8. Meetings. RTD shall have the right to attend and shall receive notice of all formal meetings with the Consultant not less than forty-eight (48) hours in advance. RTD shall not give direction to the Consultant but shall submit all comments on the Consultant's work through the City.

9. Reporting Requirements. RTD shall be responsible for all Grant reporting for the development of the Plan. The City shall cooperate with RTD in providing information required by RTD for Grant reporting, and shall also require its Consultant and any other Plan contractors and subcontractors to provide such cooperation with RTD. The City shall be responsible for providing data to support the calculation of air quality benefits derived from the Plan which is required as part of the federal CMAQ process. The

methodology for the data collection on the air quality benefits will be provided by RTD in sufficient time in advance of the reporting deadline to allow the City to prepare the data for submission.

10. Invoices. The City shall invoice RTD for Consultant's work up to a maximum amount of Two Hundred and Forty Thousand Dollars ($240,000) (if the Grant is in that amount as anticipated; otherwise up to the actual Grant amount). Such invoices shall only be for verified, eligible expenses consistent with the Grant award. City invoices may be submitted to RTD on a monthly basis effective June 1, 2014. Such invoices shall include the Consultant's invoice and other available background information regarding the work being invoiced. RTD shall reimburse the City only for actual Consultant work. Prior to utilizing the value of City staff time to meet the local match requirements contained herein, RTD shall review and approve the methodology for calculation of such utilization. RTD shall pay all approved invoices within thirty (30) days of receipt. If RTD disputes any invoice or portion thereof, it shall provide written notice to the City of the dispute within fourteen (14) calendar days of receipt of the invoice; otherwise the invoice is deemed to be approved by RTD. RTD shall not be liable for any financial contribution to the Plan funded pursuant to this IGA other than as set forth herein, unless previously authorized in writing. RTD shall not be responsible for paying Consultant bills directly.

11. Civil Rights Small Business Office.

    a. It shall be the responsibility of the Parties to ensure that the compliance and implementation of Disadvantaged Business Enterprise (DBE) requirements are in accordance with 49 CFR Part 26 and RTD's FTA approved DBE Plan and Program. RTD shall be responsible for administering its own DBE program to set and monitor compliance with the goals on this project.

    b. The RTD Small Business Office (SBO) has established a DBE goal of Twelve Percent (12%) of the total Agreement amount for this project, for a total of Thirty-Six Thousand Dollars ($36,000).

    c. It shall be the responsibility of the City to provide a DBE Liaison (Liaison) for the RTD Small Business Office which can be a collateral duty. The Liaison will be responsible for contact information, submittals, invoicing/payment information, federal reporting information and interfacing with the SBO to address various issues or concerns related to compliance with the DBE Program requirements.

    d. It shall be the responsibility of the City to provide RTD's Small Business Opportunity Office with a copy of all proposals received in response to the Request for Proposals at least two weeks in advance of selection of the successful Consultant.

    e. It shall be the responsibility of the City to include the RTD Attachment A, included herewith as Exhibit F, in the RFP and in all executed contracts for Consultant services. The proposers must complete and submit all forms to the City for the City to return to RTD's Small Business Office. All forms from the Attachment A must be submitted to the Small Business Office prior to execution of the Consultant contract to ensure compliance with regard to RTD's DBE Plan and Program. Failure to submit completed forms may result in a proposer being deemed non-responsive. The prime Consultant must provide documented proof of good faith efforts using the RTD Small Business Office documentation process should it be unable to meet the DBE goal.

f. Immediately upon execution of the Consultant contract, the City shall provide a copy of the contract to RTD's Small Business Office. It shall be the responsibility of the City's DBE Liaison to ensure that RTD's Small Business Office reviews all amendments and change orders prior to their execution.

g. The selected proposer must submit to the City's DBE Liaison Officer, a copy of all DBE subcontracts and/or purchase orders within thirty (30) days of Notice to Proceed. Under no circumstances shall a DBE begin work without an executed subcontract or purchase order.

h. No DBE shall be replaced, removed, substituted or terminated without good cause as set forth in 49 CFR Part 26.53 (f) and pre-approval by RTD's SBO. This includes reductions to scopes of services and/or subcontract values.

i. RTD's Small Business Office will directly contact the Prime Consultant and Sub-consultants for compliance monitoring, reviews and/or auditing purposes.

j. The City will withhold payment from the Prime Consultant for non-compliance with the DBE Program requirements as directed by RTD's Small Business Office.

12. Plan Recommendations. The Parties acknowledge this Agreement is for the development of the Plan only. The Parties commit that they will make reasonable efforts to secure approvals from their respective governing bodies to implement needed infrastructure improvements within their capital improvements program; adopt appropriate zoning code, master plan and other regulatory changes; and incorporate Plan recommendations into local ordinances, regulations or requirements governing development of the Plan area. Nothing herein commits either governing body to grant such approvals, and nothing herein commits either Party to fund any improvements identified in the Plan or any other adopted plans.

13. Third Parties. No person or entity not a party to this Agreement shall have rights hereunder.

14. Conflicts. No officer, member, or employee of RTD or the City, no members of the respective governing bodies of RTD or the City, and no other public officials or employees of RTD or the City during his or her tenure, or for one year thereafter, shall have any personal interest, direct or indirect, in any solicitation for services made pursuant to this Agreement or the proceeds thereof.

15. Termination; Suspension of Work. This Agreement may be terminated for any of the following reasons:

a. Funds not Available. In the event that Grant funds required for funding of this Agreement are not made available, this Agreement shall terminate unless the City elects to pay additional local match funds or reduce the Scope of Work for development of the Plan as set forth above. Whether or not Grant funds are available, or whether or not City local match funds are sufficient to pay for the Plan costs, RTD is under no obligation to provide any funds for the Plan other than Grant funds actually received by RTD.

b. Termination for Mutual Convenience. The Parties may terminate this Agreement and terminate the development of the Plan if both Parties agree in

writing that the continued development of the Plan would not produce beneficial results commensurate with the further expenditure of funds.

c. Termination of Contract for Cause. If through any cause, either Party should fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, agreements, or stipulations of this Agreement, the other Party has the right to terminate this Agreement by giving written notice of its intent to terminate. Said notice shall be delivered to the notified Party a minimum of seven (7) days in advance of the date set for termination. The notified Party shall have five (5) days after receipt of said notice of intent to terminate to respond with a proposal to cure the failure or violation. Approval of the proposal shall not be unreasonably withheld. This Agreement shall not so terminate if the proposal is accepted and the failure or violation is fully cured within a thirty (30)-day period after receipt of said notice of intent to terminate.

d. RTD's Right to Terminate Contract for Convenience or Default. RTD shall also have the right to terminate this Agreement for convenience or default, and the right to suspend the work, in accordance with provision FTA 8, Termination, of the FTA contract provisions attached as Exhibit E.

e. City's Right to Terminate Contract for Convenience. The City shall also have the right to terminate this Agreement for convenience by giving fourteen (14) calendar days written notice to RTD.

f. In the event this Agreement is terminated, RTD shall pay the City for all work previously authorized and satisfactorily performed up to and including the date of receipt by the City of the termination notice. If, however, the City has substantially or materially breached the standards and terms of this Agreement, RTD shall have any remedy or right of set-off available at law and equity.

16. Compliance with Federal Grant Requirements. The Parties acknowledge that development of the Plan will be partially federally funded. This Agreement and all subgrants, third party contracts and subcontracts are therefore subject to the FTA Master Agreement and all other applicable federal transit regulations, and all subgrants, third party contracts, and subcontracts must include as flow down provisions the FTA contract provisions attached as Exhibit E.

a. City shall at all times comply with all applicable FTA regulations, policies, procedures, reporting requirements, and directives, including without limitation those in FTA Circular 9070.1F, 49 C.F.R. part 19, and those listed directly or by reference in the current Master Agreement between RTD and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. In addition to all such requirements imposed directly upon City, those requirements imposed upon RTD as a grantee or recipient are also hereby imposed upon City, and those rights reserved by DOT, FTA or any other applicable agency are hereby reserved by RTD. City's failure to comply with any and all such requirements shall constitute a material breach of this Agreement. City may contact either RTD or FTA for a copy of the current FTA Master Agreement.

b. Without limiting the foregoing, the following are specifically incorporated herein by this reference and shall govern this Agreement: (i) 49 CFR Part 18, "Uniform

Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; (ii) 49 CFR Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (parts 18 and 19 are collectively known as the "common rule" or "common grant rule"); (iii) FTA Circular 9030.1E, Urbanized Area Formula Program: Program Guidance and Application Instructions; (iv) FTA Circular 5010.D, Grants Management – General; and (v) FTA Master Agreement. Those requirements imposed upon RTD as a grantee or recipient are hereby imposed upon City to the fullest extent permitted by law, and those rights reserved by DOT, FTA or any other applicable agency are hereby reserved by RTD.

c. All DOT-required contractual provisions as stated in FTA Circular 4220.1F are hereby incorporated by reference. City will adhere to FTA's third-party procurement requirements as set out in FTA Circular 4220.1F and shall include contractual provisions as stated in FTA Circular 4220.1F in contracts funded in whole or in part by this Agreement for all such contracts as specified in FTA Circular 4220.1F. The incorporation of FTA-required terms has unlimited flow down.

d. All FTA-mandated terms will be deemed to control in the event of a conflict with other provisions contained in this Agreement. City shall not perform any act, fail to perform any act, or refuse to comply with any RTD requests which would cause RTD to be in violation of the FTA terms and conditions.

e. City shall not assign, transfer, or convey this Agreement, or any part thereof, without the prior written consent of RTD.

f. The Federal Certifications and Assurances applicable to this Agreement are attached and fully incorporated by reference herein as Exhibit G. Such certifications, assurances and terms are subject to updating by FTA; City shall timely provide and comply with any additional FTA-required certifications and assurances. City shall comply with all applicable requirements of such certifications, assurances and terms, and shall extend and require its contractors to extend all such requirements to each of City's contractors, subcontractors, and any other third party participants whose work is funded in whole or in part by the Grant.

17. Audits. RTD, FHWA, FTA, or any auditor or contractor acting on their behalf shall have the right to audit the City's books and records and the books and records of the Consultant(s) performing the work for the Plan, and the contracts awarded for this Plan shall provide that RTD, FHWA and/or FTA shall have the right to audit the Consultant's and all of Consultant's subcontractors' books and records as they pertain to the development of the Plan for a period of three (3) years from the date of completion of the Consultant's work to develop the Plan.

18. Merger. This Agreement represents the entire agreement between the Parties and may be amended only in writing, signed by the Parties.

19. Disputes. Disputes shall initially be resolved by the Party Liaisons defined as: (i) first, RTD's Assistant General Manager for Planning and Development and the City's Community Development Director and (ii) second, RTD's General Manager and the City Manager if the Party Liaisons set forth in subsection (i) above are unable to resolve the

dispute. If none of the Party Liaisons are able to resolve the dispute, they shall agree to an impartial mediator to resolve the dispute.

20. Notices. All contacts, communications, and data required to be performed or exchanged pursuant to this Agreement will be sent to the following persons or their successors designated in writing:

For RTD:

Bill Sirois
Manager of Transit Oriented Development
Regional Transportation District
1560 Broadway, Suite 700
Denver, Colorado 80202

For the City of Englewood:

Alan White
Community Development Director
City of Englewood
1000 Englewood Parkway
Englewood, CO 80110

21. Term. This Agreement shall become effective upon the date of execution and will terminate upon completion and final acceptance of the Plan by the City, unless sooner terminated as provided in section 14.

22. Further Cooperation. The Parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of this Agreement, and will execute such additional documents as necessary to effectuate the same.

23. No Joint Venture. Nothing contained in this Agreement is intended to create a partnership, joint venture or joint enterprise between the Parties, and any implication to the contrary is hereby disavowed. This Agreement does not authorize any Party hereto to act as an agent of the other Party hereto for any purpose.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the _____day of _____, 2014.

REGIONAL TRANSPORTATION DISTRICT

By: _____
Phillip A. Washington
General Manager

Approved as to legal form for the Regional Transportation District:

_____
Rolf G. Asphaug
Deputy General Counsel

CITY OF ENGLEWOOD

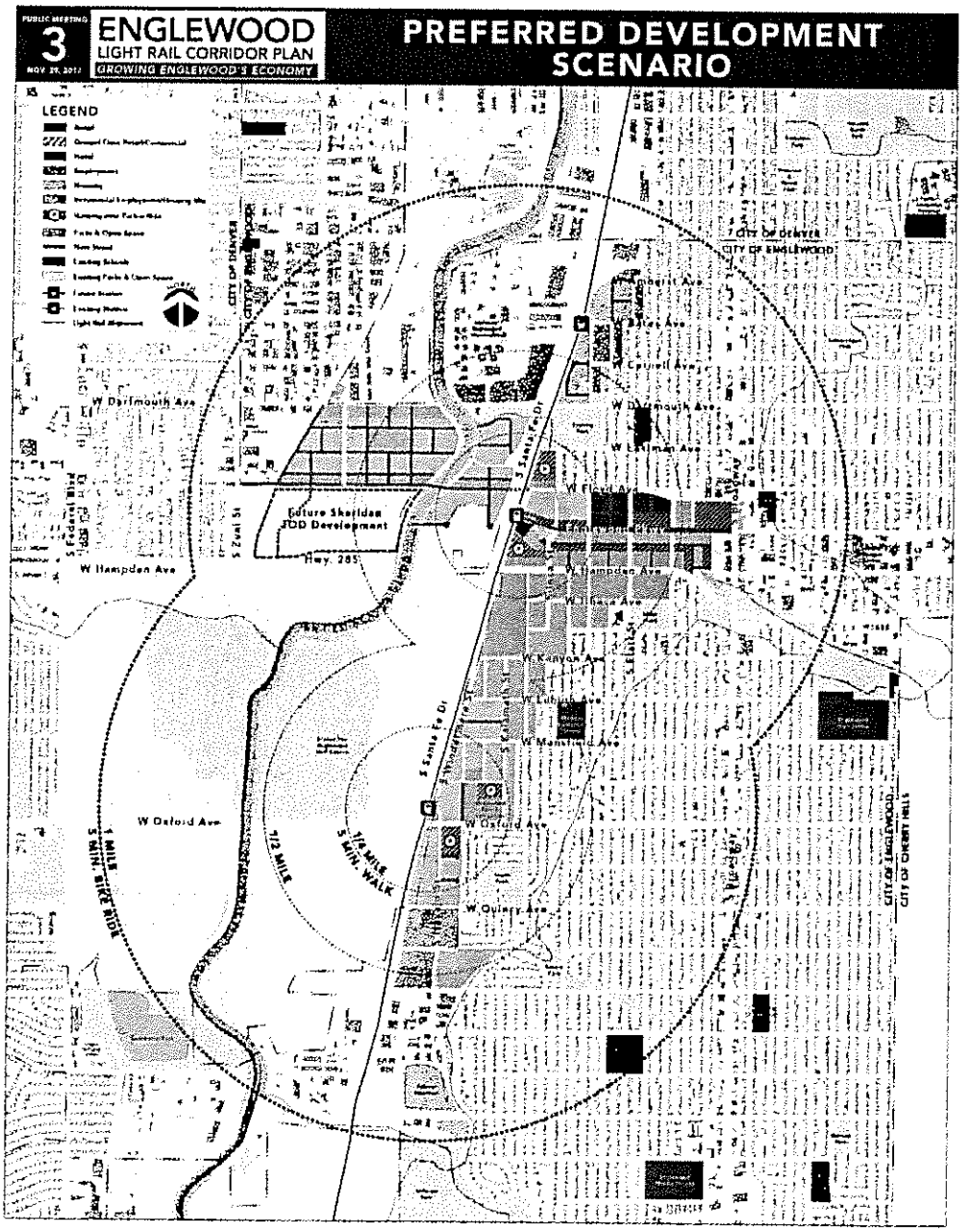
By: _____
Randy P. Penn
City Mayor

ATTEST:

_____
Loucrishia Ellis, City Clerk

Exhibit A – Project Area Maps

Exhibit A – Englewood Light Rail Corridor Plan
Preferred Development Scenario and Fundamental Concept Maps



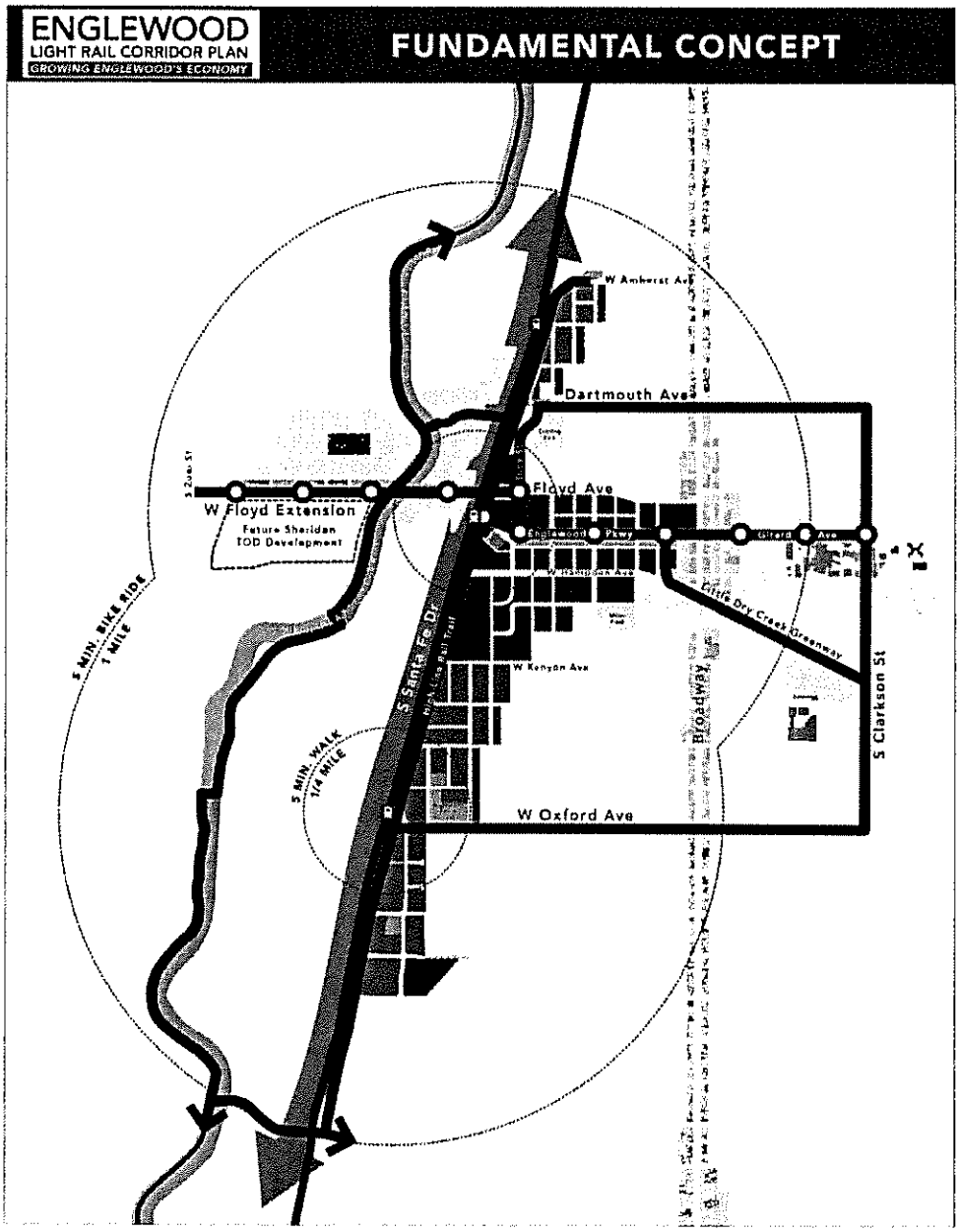

ENGLEWOOD
LIGHT RAIL CORRIDOR PLAN
GROWING ENGLEWOOD'S ECONOMY
FUNDAMENTAL CONCEPT
W Amherst Ave
Dartmouth Ave
Floyd Ave
W Floyd Extension
Future Sheridan TOD Development
Englewood Pkwy
Girard Ave
Little Dry Creek Greenway
S Clarkson St
Broadway
S Santa Fe Dr
W Kenyon Ave
W Oxford Ave
5 MIN. BIKE RIDE 1 MILE
5 MIN. WALK 1/4 MILE

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

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

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

1.) Corridor-wide studies focusing on:

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

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

Stakeholder Engagement

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

Placemaking

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

Action Plan and Implementation Strategies

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

Assessment and Impacts

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

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

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

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

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

4.) Area Planning and Implementation Activities

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

- Electric or natural gas-fueled vehicles facility planning

- Parking management planning and strategies
- Development and TOD financing strategies
- Workforce and affordable housing tools
- First/last-mile mobility implementation and financing studies

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

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

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

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

1. Corridor-wide studies: Priority will be given to existing transit corridors and corridors included in the Tier 1 Base Rapid Transit System (Figure 16: 2035 RTP) that are not receiving corridor planning funds through the region's Sustainable Communities Initiative (SCI). Planned transit corridors included in the Tier 1 Base Rapid Transit System that are not receiving SCI corridor planning funds include:
   - I-225 LRT Corridor
   - North Metro Rail Line
   - Southeast Rail Extension
   - Southwest Rail Extension
   - Central Corridor Extension

2. "Original" or major updates to Urban Center/Station Area Plans:
   - Proposed study areas include a rapid transit station and include an urban center designated in Metro Vision will be given priority.
   - Urban centers designated as "existing" or "emerging" will be prioritized over "planned" urban centers.

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

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

Project Evaluation – Project Impact

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

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

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

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

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

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

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

Exhibit C – RTD TOD Policy

Exhibit C

RTD TOD Policy

Policy Adoption

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

Definition of TOD

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

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

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

Basis for TOD Policy

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

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

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

1. **Provide more transportation choices**: Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nation's

dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.

2. **Promote equitable and affordable housing**: Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation.

3. **Enhance economic competitiveness**: Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.

4. **Target resources to existing communities**: Target federal funding toward existing communities through such strategies as transit-oriented, mixed-use development and land recycling to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes.

5. **Coordinate and leverage federal policies and investments**: Align federal policies and funding to remove barriers to collaboration, leverage funding and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy.

6. **Value unique characteristics of communities, no matter their size**: Enhance the unique characteristics of all communities by investing in healthy, safe and walkable neighborhoods – rural, urban or suburban.

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

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

TOD Vision

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

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

1. Promoting multi-sector, cross-jurisdictional partnerships;
2. Encouraging livable communities and sustainable development that support the transit system;
3. Ensuring a hierarchy of multimodal access; and
4. Protecting and enhancing RTD's transit assets.

2.5 Goals and Strategies

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

Strategies to achieve this goal include:

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

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

Strategies to achieve this goal include:

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

- Participating in joint development projects which provide the opportunity to preserve ridership, build or improve infrastructure to support transit, have local jurisdiction support and embrace the principles of livable communities

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

Strategies to achieve this goal include:

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

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

Strategies to achieve this goal include:

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

- Where appropriate consider transitioning surface parking to structured parking, other transit-related facilities or TOD (including shared parking with consideration of RTD's parking management program and governing state legislation on parking) and in doing so preserve the operational efficiency of the existing transit facility

- Utilizing shared and joint-use parking when available to reduce parking costs and add ridership, including purchase of parking in private or public parking facilities on a long term lease or other means through a partnership arrangement with local governments or private developers. Shared and joint-use parking will be developed in coordination with the RTD parking management program and state legislation.

- Favoring the acquisition of permanent rights that meet transit requirements to ensure satisfactory continuing control of RTD property

- Utilizing joint development as a means to protect and enhance station ridership and build or improve infrastructure needed to support transit and the development of livable communities.

- Where land sales are pursued for joint development projects, ensuring that there will be continuing utilization of the land for TOD purposes

- Recognizing that RTD will only acquire property for transit purposes (if opportunities arise when those transit purposes can be met as required, and the potential for locally supported and entitled developments at or near RTD stations emerge), RTD will consider such development provided that the proposed development: (i) meets the transit purpose for which the property was required; (ii) complies with all federal, state and local laws; (iii) enhances transit use; and (iv) supports the principles of livable communities.

Exhibit D – Scope of Work

Exhibit D

CONSULTANT'S SCOPE OF WORK

Englewood Light Rail Corridor Next Steps Study

The City of Englewood Community Development Department was successful in applying for a second round of Station Area Master Plan funding allocated to 'Next Steps' studies. The Englewood Light Rail Corridor Next Steps Study is intended to take a closer, more comprehensive look at various implementation projects identified in the Englewood Light Rail Corridor Station Area Master Plan.

Project Goals

The key project goals are described as follows:

- Provide a strategic road map of sequential actions local governments can take to foster redevelopment as depicted in the vision of the Englewood Light Rail Corridor Station Area Master Plan.

- Advance the design of specific transportation improvements in a way that will maximize the potential for project funding and implementation through the DRCOG TIP process, as well as other direct federal grant opportunities.

- Comply with and address all of the relevant points articulated within the criteria described by the DRCOG Station Area/Urban Center Studies Eligibility Criteria and the RTD TOD Policy.

Project Elements

The study will be comprised of the following elements:

- Project Kickoff: Agency Coordination And Public Involvement Plan

- Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy

- Englewood Transportation Improvements: Alternatives Development, Design, and Evaluation

- Sheridan Transportation Improvements: Alternatives Development, Design, and Evaluation

- Floyd Avenue/Englewood Parkway Extension and Bus Transfer/Piazza Redesign Planning and Environmental Linkages (PEL) Study

The City of Englewood Community Development Department has developed the following scope of work based on its understanding of project needs and requirements to advance the vision outlined in the Englewood Light Rail Corridor Station Area Master Plan. The Next Steps Study selection committee welcomes and encourages consultants to utilize their past project experience and knowledge of federal planning requirements and processes in developing their proposals based on the information presented in the City's envisioned scope of work.

Project Kick Off: Agency Coordination and Public Involvement Plan

The Agency Coordination and Public Involvement Plan shall at a minimum include:

- Identification of and consultations with agencies having an interest in the study area in order to identify critical issues and problems in need of resolution
- Identification of community leaders, elected officials, and key community groups and recommended level and means of involvement in the study by those identified
- Recommendation of the proper level and means of involvement in the study by the public
- Identification of planned community events in the corridor that are scheduled during the study
- Description of participation methods, objectives, and where each fits into the schedule
- Establishment of meeting dates, times, and venues in coordination with City Project Manager
- Establishment of parameters for a project website.

Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy

The Real Estate Development Feasibility Analysis will assess the development potential for transit-oriented, multi-unit residential development for four distinct areas, taking into consideration the following items for analysis:

- Economic Overview
- Site and Location Analysis
- Market Assessment (supply, demand, and projected absorption; development concept and market fit; product mix and positioning; competitive position of project site)

The Real Estate Marketing/Implementation Strategy will evaluate various development strategies for the four distinct areas, including incremental parcel development by multiple owners versus a master development by a single owner-developer or joint partnership involving multiple shareholders. The implementation strategy will also address possible sources of revenue and financing for the key transportation improvements previously identified, as well as ancillary streets, utilities, and parks. Finally, the implementation strategy will outline marketing strategies, project triggers, and a realistic timeline for development.

The Real Estate Development Feasibility Analysis and Marketing/Implementation Strategy will be conducted for the following transit-oriented development areas envisioned in the Englewood Light Rail Corridor Station Area Master Plan:

Englewood Station – West Neighborhood

The West Neighborhood is located between Dartmouth and Hampden Avenue on the north and south, and Santa Fe Drive and Zuni Street on the east and west, and includes the South Platte

River. The area is currently developed with industrial uses and is not directly connected to the Englewood Station. The Englewood Light Rail Corridor Plan envisions the creation of a key roadway connection from Englewood Station underneath the existing rail corridor and adjacent highway (Santa Fe Drive), and continuing westward with a bridge spanning the South Platte River. This connection would change the potential for attracting transit-oriented multi-unit housing development to this area. The City is seeking a detailed strategy to facilitate redevelopment. The consultant will be expected to meet with or interview key property owners to assess their interests in redevelopment.

Englewood Station – CityCenter Englewood Neighborhood

The Englewood Light Rail Corridor Plan envisioned the development of additional multi-unit residential developments immediately adjacent to the Englewood Station over current RTD and City parking areas. The first couple of floors of such developments would continue to serve the current RTD and City parking demand, and possibly allow for the expansion of the total park-n-Ride parking supply, which is allocated in RTD's FasTracks plan. The corridor plan also identified the existing bus turn around south of the station platform as a site for a hotel. The City is seeking a detailed development strategy for these identified projects.

Oxford Station – South Neighborhood

The Englewood Light Rail Corridor Plan envisioned the development of two parks located north and south of Oxford Avenue that would serve to attract higher quality multi-unit residential housing, including for sale units. The City is seeking a detailed strategy to establish the parks and attract private real estate development. Additionally, the need for a mobility network plan (streets, alleys, walkways) that serves to densify the existing street network grid has recently been identified. The mobility network plan will create a site plan framework for future residential development based on street-oriented, form based zoning regulations; provide for multiple direct pedestrian connections to the light rail station; and optimize future traffic flow and disbursement.

Bates Station – North Neighborhood

The Bates Station-North Neighborhood primarily consists of the Winslow Crane and General Iron Works properties. Planned Unit Developments were recently approved for both properties that allow redevelopment for multi-unit residential use, without establishing site plans. The City is seeking assistance in identifying public infrastructure needs for the area and developing detailed strategies for financing and implementation. This includes developing options for a mobility network plan (streets, alleys, walkways) that serves to densify the existing street network grid. The mobility network plan will create a site plan framework for future residential development based on street-oriented, form based zoning regulations; provide for multiple direct pedestrian connections to the light rail station; and optimize future traffic flow and disbursement.

Study Area Data Collection and Conditions Assessment

The Study Area Data Collection and Conditions Assessment shall include a number of the following items (and any other items not listed) deemed necessary by the consultant to inform the transportation alternatives development, design, and evaluation process. The data collection needs for each individual project will vary depending on the extent of analysis and documentation required. Prospective consultants shall specify a list of items tailored to the needs of developing, designing, and evaluating each individual transportation project identified for study in their proposals and budget accordingly.

- Collection and consolidation of crash data and traffic counts (including truck traffic) to be used for the safety and operational analyses

- Documentation of the existing and planned transportation system in the study area including highway through and auxiliary lanes, right-of-way and access; arterial lanes and access; transit types/service levels including station locations, routes and frequency, safety records and ridership and major concentrations of riders. The document shall also include bicycle and pedestrian facilities, planned and existing intermodal connection facilities and stations, as well as major utilities

- Documentation of the travel markets that use the transportation system to establish geographic locations of trip origins and destinations, trip purpose (Commuter/Non-commuter trips), local versus regional trips, and average length of trip

- Summarization of land use and modeling data as provided by the DRCOG travel demand model

- Summarization of current and future traffic operations for both the AM and PM peak hours

- Estimation of future travel demands

- Identification of distinct segments of each corridor which share distinguishing urban traits, adjacent land use characteristics and existing roadway conditions

- Summarization of current roadway features including lane configurations, roadway and right-of-way widths and adjacent land ownership characteristics, building set-backs, utility and environmental concerns

- Illustration of the typical existing cross section for each discrete segment of each corridor and an assessment of the operational and safety adequacy of that cross-section based on both existing and future (2035) travel demands

- Development of an Environmental Overview. The following environmental resources are considered as essential resources for study and documentation. This list is not all-inclusive and is subject to change based on meetings with project stakeholders

    1. Land Use
    2. Floodways and 100-year floodplain boundaries
    3. Parks and Recreational Resources
    4. Historic Resources
    5. Hazardous Substances
    6. Wetlands and Other Waters of the US
    7. Wildlife/Threatened and Endangered Species

- Documentation of the list of issues that resulted from contacts with stakeholders and general knowledge of the study area to identify a list of key needs

- Preparation of a preliminary list of existing and anticipated deficiencies in the study area. The list should describe the existing or anticipated deficiencies in the transportation system and the growth or changing needs in the study area along with an estimate as to the timeframe in which deficiencies will occur

Englewood Transportation Improvements: Alternatives Development, Design, and Evaluation

Key transportation improvement implementation projects identified in the Englewood Light Rail Corridor Station Area Master Plan for further evaluation are listed below:

- Rail Trail – includes trail alignment and bridges
- Oxford, Dartmouth, Clarkson Protected Bikeway Loop
- Southwest Greenbelt Trail Improvements and Extension
- Floyd Avenue Extension
- Englewood Parkway Extension and Bus Transfer/Piazza Redesign
- Englewood Station Platform Shelter

The Floyd Avenue Extension project is directly linked with the Englewood Parkway Extension/Bus Transfer and Piazza Redesign project, as both of these projects as currently envisioned would need to be constructed together. Federal transportation and environmental regulations for automobile road projects require a more extensive Planning and Environmental Linkages (PEL) analysis and documentation process for these projects.

The consultant will develop a reasonable range of alternatives for each key near-term transportation improvement project identified in the Englewood Light Rail Corridor Station Area Master Plan. The consultant will complete basic engineering for the alternatives to be screened. Basic engineering will generally be to a conceptual level of design; however, more detail may be needed for some projects to support feasibility analysis and screening. The range of alternatives will be evaluated using a screening process through which the level of analysis detail becomes greater as the number of alternatives reduces. The consultant will produce an easy-to-read pictorial summary guide that helps the public evaluate the pros and cons of each alternative in a creative and meaningful way. This evaluation is intended to illuminate the issues and provide a coherent discussion prior to selecting preferred strategies. Following screening, the proposed actions will be documented and the conceptual designs will be further refined as needed to avoid impacts and/or provide mitigation. The conceptual designs of the proposed actions will be developed to a 5% design level in order to develop accurate cost estimates for each project. An exception to the 5% design level specification is desired for the Rail Trail project, budget permitting. This project is considered to be the City's top near term priority project. The Rail Trail project is envisioned to serve not only as a means of providing safe and efficient pedestrian and bicycle access to the stations, but as a signature image enhancement for the corridor and the City as well. Aesthetic aspects regarding landscaping, lighting, furniture, and artistic design elements should be considered for incorporation into the conceptual design process.

Sheridan Transportation Improvements: Alternatives Development, Design, and Evaluation

The neighboring City of Sheridan has requested to participate in the Englewood Light Rail Corridor Next Steps Study as a secondary partner to the City of Englewood in order to evaluate two additional projects that were not identified in the original Englewood Light Rail Corridor Station Area Master Plan.

- Oxford Avenue Protected Bikeway - Oxford Station to Fort Logan
- Oxford Station Pedestrian Bridge/Tunnel – Station Connection to west side of Santa Fe Drive

The consultant will develop a reasonable range of alternatives for the City of Sheridan projects. The consultant will complete basic engineering for the alternatives to be screened. Basic engineering will generally be to a conceptual level of design; however, more detail may be needed in some areas to support feasibility analysis and screening. The range of alternatives will be evaluated using a screening process through which the level of analysis detail becomes greater as the number of alternatives reduces. The consultant will produce an easy-to-read pictorial summary guide that helps the public evaluate the pros and cons of each alternative in a creative and meaningful way. This evaluation is intended to illuminate the issues and provide a coherent discussion prior to selecting preferred strategies. Following screening, the proposed actions will be documented and the conceptual designs will be further refined as needed to avoid impacts and/or provide mitigation. The conceptual designs of the proposed actions will be developed to a 5% design level in order to develop accurate cost estimates for each project.

Floyd Avenue/Englewood Parkway Extension and Bus Transfer/Piazza Redesign Planning and Environmental Linkages Study

The City of Englewood anticipates the need to apply for Transportation Investment Generating Economic Recovery (TIGER) grant funds in order to implement the Floyd Avenue/Englewood Parkway Extension and Bus Transfer/Piazza Redesign project, which is subject to National Environmental Policy Act (NEPA) review. In order to facilitate the NEPA review process for the Floyd Avenue/Englewood Parkway Extension and Bus Transfer/Piazza Redesign project, a Planning and Environmental Linkages (PEL) document will be completed by the consultant.

A project Purpose and Need statement for the Floyd Avenue/Englewood Parkway Extension and Bus Transfer/Piazza Redesign will be developed based primarily on the vision, goals, and objectives found in the Englewood Light Rail Corridor Station Area Master Plan document, as well as the Real Estate Development Feasibility and Marketing/Implementation Strategy report. As a part of the Purpose and Need development process, the consultant will formally determine the project extent based on a preliminary analysis of the independent utility and logical termini for the project. Additionally, the consultant will conduct a review of all state, regional, and local plans and capital improvements programs, which will inform the context of the Purpose and Need Statement. Finally, the consultant will select the most appropriate travel demand models for use in evaluating project design alternatives.

The Consultant will prepare a PEL Study that includes an Executive Summary and the following chapters: Purpose and Need Statement, Proposed Actions, No-Action Alternative, Other Alternatives Considered and Alternative Screening, Affected Environment and Environmental Consequences, Agency Coordination and Public Involvement, and Implementation, as well as all associated technical reports and the completion of the FHWA PEL Questionnaire.

Exhibit E – FTA Terms

Exhibit E to Section 5307 Agreement

FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

ALL FTA ASSISTED THIRD PARTY CONTRACTS AND SUBCONTRACTS

Exhibit E - Table of Contents

FTA 1 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES 35

FTA 2 FALSE OR FRAUDULENT STATEMENTS OR CLAIMS - CIVIL AND CRIMINAL FRAUD 35

FTA 3 ACCESS TO THIRD PARTY CONTRACT RECORDS 35

FTA 4 CHANGES TO FEDERAL REQUIREMENTS 36

FTA 5 CIVIL RIGHTS 36

FTA 6 DISADVANTAGED BUSINESS ENTERPRISES (DBE)s 37

FTA 7 INCORPORATION OF FTA TERMS 38

FTA 8 TERMINATION 39

FTA 9 DEBARMENT AND SUSPENSION 40

FTA 10 BUY AMERICA 41

FTA 11 RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION 41

FTA 12 LOBBYING 42

FTA 13 CLEAN AIR 42

FTA 14 CLEAN WATER 42

FTA 15 CARGO PREFERENCE 43

FTA 16 FLY AMERICA 43

FTA 17 CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS–BACON ACT 44

FTA 18 CONSTRUCTION EMPLOYEE PROTECTIONS – CONTRACT WORK HOURS & SAFETY STANDARDS ACT 50

FTA 19 CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT 50

FTA 20 BONDING FOR CONSTRUCTION ACTIVITIES EXCEEDING $100,000 51

FTA 21 SEISMIC SAFETY 52

FTA 22 NONCONSTRUCTION EMPLOYEE PROTECTION – CONTRACT WORK HOURS & SAFETY STANDARDS ACT 53

FTA 23 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS 54

FTA 24 CHARTER BUS OPERATIONS 55

FTA 25 SCHOOL BUS OPERATIONS 55

FTA 26 DRUG USE AND TESTING 55

FTA 27 ALCOHOL MISUSE AND TESTING 56

FTA 28 PATENT RIGHTS 57

FTA 29 RIGHTS IN DATA AND COPYRIGHTS 57

FTA 30 SPECIAL NOTIFICATION REQUIREMENT FOR STATES 61

FTA 31 ENERGY CONSERVATION 61

FTA 32 RECYCLED PRODUCTS 61
FTA 33 CONFORMANCE WITH NATIONAL ITS ARCHITECTURE 61
FTA 34 ADA ACCESS 62
FTA 35 ASSIGNABILITY CLAUSE 62
FTA 36 BUS TESTING 63
FTA 37 PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS 63
FTA 38 TVM CERTIFICATION 63

Provisions 1 through 7 apply to ALL CONTRACTS

FTA 1 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

A. RTD and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to RTD, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

B. Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution or performance of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.

C. Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FTA 3 ACCESS TO THIRD PARTY CONTRACT RECORDS

A. For a period of three years following Contract closing, the Contractor shall maintain, preserve and make available to RTD, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives, access at all reasonable times to any books, documents, papers and records of Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or his or her authorized representatives, including any project management oversight contractor, access to Contractor's records and sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309 or 5311.

B. The Contractor shall maintain and RTD shall have the right to examine and audit all records and other evidence sufficient to reflect properly all prices, costs or rates negotiated and invoiced in performance of this Contract. This right of examination shall include inspection at all reasonable times of the Contractor's offices engaged in performing the Contract.

C. If this Contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement. The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.

D. "Access to Records and Reports" applies with equal force and effect to any subcontractors hired by the Contractor to perform Work under this Contract. The Contractor shall insert this provision in all subcontracts under this Contract and require subcontractor compliance therewith.

FTA 4 CHANGES TO FEDERAL REQUIREMENTS

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

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

The following requirements apply to the underlying Contract:

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

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

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

compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

FTA 6 DISADVANTAGED BUSINESS ENTERPRISES (DBE)s

A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises (DBEs) in Department of Transportation Financial Assistance Programs. The national goal for participation of DBEs is 10%.

B. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract or such other remedy as RTD deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

C. The Contractor is required to pay its subcontractors performing Work related to this Contract for satisfactory performance of that Work no later than 5 days after the Contractor's receipt of payment for that Work from RTD. In addition, the Contractor shall return any retainage payments to subcontractors within 5 days after incremental acceptance of the subcontractor's Work by RTD and Contractor's receipt of the partial retainage payment related to the subcontractor's Work.

D. The Contractor must promptly notify RTD, whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of Work. The contractor may not terminate any DBE subcontractor and perform that Work through its own forces or those of an affiliate without prior written consent of RTD.

E. RTD sets an annual overall goal for the participation of disadvantaged business enterprises. This Contract contains a minimum level of DBE participation, and is awarded in reliance upon the Contractor's representations that it can attain such DBE participation levels in addition to all other of Contractor's representations, certifications and submittals as required by Section IV, Attachment A, of this Contract.

The Contractor shall cooperate with RTD with regard to maximum utilization of DBEs and will use its best efforts to insure that DBEs shall have the maximum practicable opportunity

to compete for subcontract work under this Contract. The Contractor shall assist RTD in verifying compliance with the DBE requirements of this Contract, if any, by submitting status reports itemizing payments to all DBE subcontractors with each monthly request for payment. Upon Contract completion, the Contractor shall submit a summary of payments, by subcontract, made to all subcontractors to RTD's Business Opportunity and Outreach Officer.

FTA 7 INCORPORATION OF FTA TERMS

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

Provision 8 applies to AWARDS EXCEEDING $10,000

FTA 8 TERMINATION

A. For Convenience. RTD may, by giving at least 14 days' written notice to the Contractor, terminate this Contract, or suspend performance hereunder, in whole or in part and at any time for RTD's convenience. The Contractor shall be compensated solely for Work satisfactorily performed prior to the effective date and time of termination or suspension. The Contractor shall have no right to recover lost profits on the balance of the Work, or any other measure of damages.

B. For Default. RTD may declare default in the Contractor's performance of any term of this Contract by giving seven days' written notice to the Contractor specifying with particularity the basis for such default. The Contractor shall deliver a response in writing to RTD within five days of Contractor's receipt of RTD's default notice setting forth a reasonable proposal to cure or to prevent repetition of the default. If the Contractor fails to timely respond to the notice of default, fails to cure the default, or if the default occurs again on any Work performed (or which should have been performed) during the remainder of the Contract term (including options), RTD shall have the right to terminate this Contract for default by written notice. RTD is not required to provide subsequent written notices of default for recurring instances of default already brought to the attention of the Contractor in a written notice. In the event of such termination for default, the Contractor shall be compensated solely for Work satisfactorily performed prior to the effective date and time of termination. RTD may proceed with the Work by contract or otherwise and the additional cost to RTD of completing the Work shall be deducted from any sum due the Contractor. If after termination for default it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for RTD's convenience. The foregoing shall be in addition to any other legal or equitable remedies available to RTD.

C. Suspension of Work. RTD may suspend the performance of the Contractor by giving the Contractor seven days' written notice. Upon Contractor's receipt of notice of suspension of Work, the Contractor shall perform no further Work and RTD will not be required to reimburse the Contractor for any costs incurred subsequent to Contractor's receipt of notice of suspension and prior to notice to resume Work, if any. Suspension of Work may be in whole or in part, as specified by RTD. The Contractor shall continue to submit invoices for Work performed. If after six months of suspension, RTD has not given the Contractor notice to resume Work, the Contractor is entitled to request in writing that RTD either (1) amend the Statement of Contract Cost or (2) terminate the Contract pursuant to "Termination for Convenience." If suspension for more than six months is not due in any part to the fault of the Contractor, RTD shall be required to amend or terminate the Contract. No amendment to the Statement of Contract Cost shall be made under this Article if suspension, delay, or interruption is due to the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.

Provision 9 applies to AWARDS EXCEEDING $25,000

FTA 9 DEBARMENT AND SUSPENSION

A. If this Contract is valued at $25,000 or greater, it is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

B. Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

C. By accepting this Contract, Contractor is certifying as follows:

1. The certification in this clause is a material representation of fact relied upon by RTD. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to RTD, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Contract.
2. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Provisions 10 through 11 apply to AWARDS EXCEEDING THE SIMPLIFTED ACQUISTION THRESHOLD ($100,000)

FTA 10 BUY AMERICA

(for Rolling Stock, Construction and Materials/Supplies)

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

The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or

the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements.

FTA 11 RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

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

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

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

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

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

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

FTA 12 LOBBYING

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

FTA 13 CLEAN AIR

A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to

report each violation to RTD and understands and agrees that RTD will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

FTA 14 CLEAN WATER

A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* Contractor agrees to report each violation to RTD and understands and agrees that RTD will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. Contractor also agrees to include these requirements in each subcontract exceeding $ 100,000 financed in whole or in part with Federal assistance provided by FTA.

Provisions 15 and 16 apply for the TRANSPORT OF PROPERTY OR PERSONS

FTA 15 CARGO PREFERENCE

(Rolling Stock, Construction and Materials/Supplies)

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

The Contractor agrees:

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

FTA 16 FLY AMERICA

In the performance of Contracts that utilize FTA participation in the cost of international air transportation, Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S.-Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.

Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S.-Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Provisions 17 through 21 apply to CONSTRUCTION ACTIVITIES

FTA 17 CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS-BACON

(Awards that exceed $2,000)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the

action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of

the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been

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

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

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

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

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

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

(for construction contracts that exceed $100,000)

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

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards,

employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

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

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

FTA 19 CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT

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

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

(i) Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both;

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

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

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

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

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

FTA 20 BONDING FOR CONSTRUCTION ACTIVITIES EXCEEDING $100,000

Bid Bond Requirements (Construction)

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

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

(b) Rights Reserved

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

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

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

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

Performance and Payment Bonding Requirements (Construction)

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

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the RTD determines that a lesser amount would be adequate for the protection of the RTD.

2. The RTD may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The RTD may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than $1 million.

(ii) Forty percent of the contract price if the contract price is more than $1 million but not more than $5 million; or

(iii) Two and one half million if the contract price is more than $5 million.

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

FTA 21 SEISMIC SAFETY

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

Provision 22 applies to NONCONSTRUCTION ACTIVITIES

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

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

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

Provisions 23 through 27 apply to TRANSIT OPERATIONS

FTA 23 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

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

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

(2) Public Transportation Employee Protective Arrangements for Elderly Individuals and Individuals with Disabilities for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program. To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a governmental authority sub recipient participating a Project authorized by 49 U.S.C. § 5310(b)(2) or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, the Recipient agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor necessary to comply with the requirements of 49 U.S.C. § 5333(b), and the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement. The Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S. DOL certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

(3) Public Transportation Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The Recipient agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, U.S. DOL implementing procedures, and any revisions thereto.

FTA 24 CHARTER BUS OPERATIONS

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

FTA 25 SCHOOL BUS OPERATIONS

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

FTA 26 DRUG USE AND TESTING

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

FTA 27 ALCOHOL MISUSE AND TESTING

The Contractor agrees to establish and implement an alcohol testing program that complies with 49 CFR Part 40 Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Colorado, or the Regional Transportation District, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 40 and 655 and review the testing process. The Contractor agrees further to certify annually its

compliance with Part 40 and 655 before December 31st of every year and to submit the Management Information System (MIS) reports no later than February 15th of every year to the Substance Abuse Testing Department, Regional Transportation District, 1600 Blake Street, Denver, CO 80202-1399. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

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

FTA 28 PATENT RIGHTS

A. General. The Recipient agrees that:

(1) Depending on the nature of the Project, the Federal Government may acquire rights when the Recipient (RTD) or third party participant produces a patented or patentable invention, improvement, or discovery.

(2) The Federal Government's rights arise when the patent or patentable information is conceived under the Project, or reduced to practice under the Project.

(3) When a patent is issued or patented information becomes available as described in the preceding paragraph A(1) of this Article, the Recipient agrees to notify FTA immediately, and provide a detailed report satisfactory to FTA.

B. Federal Rights. The Recipient agrees that:

(1) Its rights and responsibilities, and those of each third party participant, in that invention, improvement, or discovery will be determined as provided by Federal laws, regulations, and directives, including any waiver thereof.

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

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

(1) License fees and royalties for patents, patent applications, and inventions derived from Project are program income.

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

FTA 29 RIGHTS IN DATA AND COPYRIGHTS

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

information that:

(1) Copyright. Are copyrighted or not copyrighted,

(2) Delivery. Are delivered or specified to be delivered by the underlying Agreement, and

(3) Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information.

(4) Exceptions. "Subject data" do not include financial reports, cost analyses, or other similar information used for Project administration.

B. General. The following restrictions apply to all Subject Data first produced in the performance of the underlying Agreement:

(1) Prohibitions. The Recipient (RTD) may not publish or reproduce Subject Data in whole or in part, or in any manner or form, or permit others to do so.

(2) Exceptions. The restrictions on publication of Subsection B(1) of this Article do not apply to publications or reproductions for the Recipient's own internal use, to an institution of higher learning, to the portion of the data that the Federal Government has previously released or approved for release to the public, or to the portion of the data that has the Federal Government's prior written consent for release.

C. Federal Rights in Data and Copyrights. The Recipient agrees as follows:

(1) License Rights. The Recipient must provide the Federal Government a license to "Subject Data" that is royalty-free, non-exclusive, and irrevocable.

(2) Uses. The Federal Government's license must permit it to reproduce the Subject Data, publish the Subject Data, otherwise use the Subject Data, and permit others to use the Subject Data for Federal Government purposes.

(3) Federal Government Purposes. As used in this Article, "for Federal Government purposes" means that the Federal Government may use its license only for its own direct purposes, and the Federal Government may not provide or otherwise extend to other parties, without the copyright owner's consent, its license to any Subject Data developed and funded at any tier through the underlying Agreement, and any rights of copyright to which the Recipient or third party participant purchases ownership using Federal funds.

D. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its third party participants. Therefore, the Recipient agrees that:

(1) Publicly Available Report. When the Project is completed, it must provide a Project

report that FTA may publish or make available for publication on the Internet.

(2) Other Reports. It must provide other reports pertaining to the Project that FTA may request.

(3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its third party participants at any tier of the Project, either FTA's copyright to the Subject Data or a copy of the Subject Data, except as FTA determines otherwise in writing.

(4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.

(5) Incomplete Project. If the project is not completed for any reason whatsoever, all data developed under the Project becomes "subject Data" and must be delivered as the Federal Government may direct.

(6) Exception. This Subsection D does not apply to an adaptation of automatic data processing equipment or program that is both for the Recipient's use, and acquired with FTA capital program funding.

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

(1) License fees and royalties for copyrighted material or trademarks derived from the Project are program income.

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

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

(1) Violation by Recipient. Except as prohibited or otherwise limited by State law, it will indemnify, save, and hold harmless the Federal Government's officers, employees, and agents acting within the scope of their official duties, against any liability, including costs and expenses,

(a) If it willfully or intentionally violates any Proprietary rights, Copyrights, or Right of privacy,

(b) Occurring from any of the following uses of Project data: Publication, Translation, Reproduction, Delivery, Use, or Disposition.

(2) Violation by Federal Officers, Employees or Agents. The Recipient will not be required to indemnify the Federal Government for any liability described in the preceding paragraph F(1) caused by the wrongful acts of Federal employees or agents.

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

(1) Implies a license to the Federal Government under any patent, or

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

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

(1) Protections. paragraphs A, B, C, and D of this Article do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project.

(2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding or support from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential.

I. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by:

(1) The Freedom of Information Act, 5 U.S.C. § 552,

(2) Another Federal law requiring access to Project records,

(3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or

(4) Other Federal regulations requiring access to Project records.

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

FTA 30 SPECIAL NOTIFICATION REQUIREMENT FOR STATES

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

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

MISCELLANEOUS SPECIAL REQUIREMENTS

FTA 31 ENERGY CONSERVATION

(applies to all contracts)

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

FTA 32 RECYCLED PRODUCTS)

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

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

FTA 33 CONFORMANCE WITH NATIONAL ITS ARCHITECTURE

(Contracts and solicitations for ITS projects)

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

FTA 34 ADA ACCESS

(Contracts for rolling stock or facilities construction/renovation)

A. RTD must comply with: 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities; all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act of 1990 (ADA), as amended; 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities.

B. All deliverable items provided by the Contractor for RTD under this Contract shall comply with the above-referenced laws as well as all other applicable federal, state and local regulations and directives and any subsequent amendments thereto.

FTA 35 ASSIGNABILITY CLAUSE

(Procurements through assignments)

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

Provisions 36 through 38 apply to ROLLING STOCK PROCUREMENTS

FTA 36 BUS TESTING

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

1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.

2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

FTA 37 PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS

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

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

FTA 38 TVM CERTIFICATION

The Transit Vehicle Manufacturer (TVM) shall provide RTD with a certificate that complies with 49 CFR Part 26.49 stating that the TVM has complied with FTA's DBE requirements. The TVM shall also provide RTD with the most current letter from the FTA approving the TVM's DBE goal/methodology and eligibility to participate in the FTA DBE program as a TVM in accordance with 49 CFR Part 26.49. If the FTA has not yet approved the DBE Goal, the TVM shall make a certification to that effect as required by 49 CFR Part 26.49 and in addition submit to RTD a copy of the documents submitted to FTA for approval. These documents shall be submitted with the solicitation response or the TVM's submittal may be deemed non-responsive.

Exhibit F – Attachment A: DBE/SBE Requirements

Attachment A

Civil Rights/Equal Employment Opportunity/DBE
RFP/IFB

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PART A
SPECIFIED FEDERAL REQUIREMENTS

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

1. CIVIL RIGHTS REQUIREMENTS APPLICABLE TO THE CONTRACT

1.1 *CIVIL RIGHTS*

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

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

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

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

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

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

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

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

(ii) **WILL, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR, STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT WITHOUT REGARD TO RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, DISABILITY OR AGE. THE CONTRACTOR AGREES TO COMPLY WITH ANY REGULATIONS PROMULGATED BY THE EEOC, OFCCP,**

DEPARTMENT OF LABOR, DEPARTMENT TO JUSTICE, THE REGIONAL TRANSPORTATION DISTRICT, COLORADO REVISED STATUTES AND ALL OTHER RELEVANT STATE AND LOCAL LAWS.

PART B
DISADVANTAGED BUSINESS ENTERPRISES
PROGRAM REQUIRMENTS

1. DEFINITIONS

Unless the context requires otherwise, capitalized terms used in this Attachment A shall have the meanings given to them in Appendix H (Definitions) of the Instructions to Proposers. However, if there is a conflict, the definitions in this section shall prevail. In addition, the following capitalized terms shall have the meanings set out below:
Contract Goal (DBE goal) means a goal determined by such factors as the type of work involved, the location of the work and the availability of the DBEs for the work of the particular contract.

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

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

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

(i) ***that is at least 51% owned and controlled by one or more Socially and Economically Disadvantaged individuals or, in the case of a corporation, such individuals must own at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding; In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals; In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals;***

(i) whose eligible principle(s) personal net worth does not exceed $1,320,000. The personal net worth excludes the equity of the eligible principle's primary residence and the equity of the eligible principle's firm

(ii) whose average annual gross receipts for the past 3 years cannot exceed $22.41 million

(iii) whose management and daily operations are controlled by one or more of the Socially and Economically Disadvantaged individuals who owns it; and

(iv) that is certified as a "Disadvantaged Business Enterprise" in the state's Unified Certification Program.

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

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

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

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

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

2. Overview of RTD's DBE Program Policy

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

Additionally:

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

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

(iii) **TO COUNT A DISADVANTAGED BUSINESS' PARTICIPATION TOWARD THE GOAL ESTABLISHED FOR THIS CONTRACT,**

(iv) **THE PROPOSED DBE(S) MUST BE CERTIFIED AS A DBE(S) WITH THE CITY AND COUNTY OF DENVER OR CDOT (COLORADO UCP) UNDER THE NAICS CODE THAT COINCIDES WITH THE SCOPE OF WORK THAT**

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

3. General Requirements

3.1 *DBE Goals*

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

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

or

(B) *demonstrate with satisfactory documentation that it has made good faith efforts to meet the DBE Goal, as applicable. Contractors failing to meet*

the specified DBE goal are required to submit DBE Unavailability Certification, in the form set out in the Attachment A (Enclosure 7: DBE Unavailability Certification) along with complete documentation of good faith efforts to meet the goal. Failure to provide complete documentation/detailed written explanations of good faith efforts will result in the bid/proposal being deemed non-responsive. Appendix A of 49 CFR Part 26 shall serve as the criteria for evaluating compliance with the good faith efforts requirements. Additionally, bidders/proposers are required to solicit the support and assistance of RTD's SBO if they are unable to meet the DBE participation goal assigned to this contract.

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

(ii) *The DBE participation goal applies to the total value of <u>all</u> work performed under the contract which includes the value of all change orders, amendments and modifications. Any partial waiver determination will be made at or near the conclusion of the contract when the totality of the circumstances can be taken into consideration and the Contractor's efforts can be objectively evaluated. Material supplies are credited for 60% of their contract value unless they are deemed to be a broker or transaction expediter in which case only the fee or commission may be counted toward the goal (so long as the DBE is performing a commercially useful function). If it is determined that the DBE is not performing a commercially useful function, then no participation credit shall be attributable to their participation on the contract.*

(iii) To count DBE participation toward the goal established for this contract, the proposed DBE(s) must be certified as a DBE(s) with the City and County of Denver or CDOT under the appropriate NAICS code that coincides with the scope of work that they will execute on the project/contract. Additionally, the DBE firm must be certified as a DBE and perform a "commercially useful function" as defined in this Attachment.

3.2 *Joint Ventures*

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

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

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

3.3 *DBE Liaison*

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

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

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

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

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

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

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

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

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

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

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

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

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

Flow-Down Provisions:

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

3.4 *Prompt Payment of DBE Subcontractors*

(i) *The Contractor shall ensure that:*

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

(B) **APPROVAL OF INVOICES IS NOT UNREASONABLY DELAYED AND THAT INVOICES SHALL BE EITHER APPROVED OR REJECTED WITH WRITTEN NOTICE OF DEFICIENCY OR DISPUTE TO THE PAYEE DBE**

SUBCONTRACTOR WITHIN TEN DAYS OF RECEIPT OF INVOICE BY THE CONTRACTOR; AND

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

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

(E) **THE CONTRACTOR SHALL ENSURE THAT TIERED SUBCONTRACTORS COMPLY WITH THIS SECTION AND INSERT THE PROVISIONS OF THIS SECTION INTO ALL LOWER TIERED SUBCONTRACTOR AGREEMENTS.**

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

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

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

(A) **BEFORE TRANSMITTING TO RTD'S SBO ITS REQUEST TO TERMINATE AND/OR SUBSTITUTE A DBE CONTRACTOR, THE CONTRACTOR MUST GIVE NOTICE IN WRITING TO THE DBE CONTRACTOR AND RTD SBO. THE NOTICE MUST INCLUDE ITS REQUEST TO TERMINATE AND/OR SUBSTITUTE, REPLACE AND/OR REMOVE THE DBE, THE REASON FOR THE REQUEST AND ALL DOCUMENTATION TO**

SUPPORT ITS CLAIM. THE CONTRACTOR MUST SUBMIT A COPY OF THE NOTICE AND SUPPORT DOCUMENTATION TO RTD'S SBO AT THE TIME THE ORIGINAL LETTER IS SENT TO THE DBE CONTRACTOR;

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

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

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

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

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

(ii) *The Contractor shall ensure that tiered subcontractors comply with this Section*

and insert the provisions of this Section into all lower tiered subcontractor agreements, regardless of their certification status.

3.6 *Good Faith Efforts*

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

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

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

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

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

(D) **WHETHER THE CONTRACTOR NEGOTIATED IN GOOD FAITH WITH INTERESTED DBES. IT IS THE BIDDER'S RESPONSIBILITY TO MAKE A PORTION OF THE WORK AVAILABLE TO DBE SUBCONTRACTORS AND SUPPLIERS AND TO SELECT THOSE PORTIONS OF THE WORK OR MATERIAL NEEDS CONSISTENT WITH THE AVAILABLE DBE SUBCONTRACTORS AND SUPPLIERS, SO AS TO FACILITATE DBE PARTICIPATION. THE FACT THAT A BIDDER MAY**

PERFORM 100% OF THE WORK WITH ITS OWN WORKFORCE IS NOT SUFFICIENT JUSTIFICATION TO FAIL TO NEGOTIATE WITH DBES OR NOT TO MEET THE DBE PARTICIPATION GOAL ASSIGNED TO A PROJECT.

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

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

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

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

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

(ii) *If, after reviewing the "good faith efforts" documentation submitted by the contractor, the RTD SBO Manager determines that "good faith efforts" were met, the contract will be recommended for award to the contractor. If the SBO Manager determines that the contractor failed to meet the "good faith efforts" requirements, the contractor will be informed in writing that their submittal was deemed non-responsive to the Attachment A requirements and will not be considered for contract award. The contractor may appeal the decision of the RTD SBO Manager to the Good Faith Efforts (GFE) Committee. If the contractor wishes to appeal, they must do so in writing to the RTD Senior Manager of Materials Management within 5 business days of being informed of the decision of the RTD SBO Manager that their submission was non-compliant.*

(iii) *If the decision of the SBO Manager is appealed in writing, with in the 5 day submission window, the GFE Committee will review the documentation initially submitted by the contractor – and no other information - under this Section to decide whether the DBE requirements have been satisfied through "good faith efforts".*

(iv) *If the written appeal request is received after the 5 business day submission window, it will be disallowed and the determination of the RTD SBO Manager that the submission was non-compliant will stand.*

(v) *If the GFE committee determines that "good faith efforts" were met, the contract will be recommended for award to the contractor. If the GFE Committee determines that the contractor has failed to meet the good faith effort requirements, the contractor will be informed in writing. The contractor has an opportunity for administrative reconsideration of the determination of the GFE committee. If the contractor requests administrative consideration, they must do so in writing to the RTD Senior Manager of Materials Management within 5 business days of receiving the decision of the GFE Committee that their submission was non-compliant. If the written administrative consideration request is received after the 5 business day submission window, it will be disallowed and the determination of the GFE committee that the submission was non-compliant will stand.*

(vi) *The reconsideration official will be a member of RTD staff who did not take part in the initial "good faith" effort decision. The reconsideration official will review the documentation initially submitted – and no other information - under this Section to decide whether the DBE requirements have been satisfied through good faith efforts.*

(vii) *If the reconsideration official determines that "good faith" efforts were met, the contract will be recommended for award to the contractor. If the reconsideration official determines that the contractor has failed to meet the "good faith effort requirements, the contractor will be informed in writing. The result of the reconsideration process is not administratively appealable to the Department of Transportation.*

3.7 *Changes*

(i) *The DBE participation goal shall apply to the performance/dollar value of all obligations under this Contract, including any Changes, Modifications, Amendments and Change Orders whether initiated by the contractor or RTD. Post award requests for partial waivers may be considered by RTD's SBO but a final determination shall not be rendered until the contract has been substantially completed and the Contractor lacks the ability to satisfy the DBE participation goal.*

(ii) *Changes to the value or scope of work committed to a DBE must be pre-approved by the SBO and must be for good cause as set forth in the termination, substitution, replacement provisions set forth in section 3.5 above.*

3.8 *Requirements of Attachment A Enclosures*

(i) *The Contractor must complete and return all applicable Enclosures in the forms set out in this Attachment with bid/proposal. All enclosures must also be submitted with the bid/proposal.*

(ii) *The Enclosure 2 Schedule of Participation enclosure subsequent to the award must be submitted with the addition of each identified DBE firm.*

(iii) *The Enclosure 3 Letter of Intent (LOI) enclosure subsequent to the award must be submitted with the addition of each identified DBE firm.*

(iv) *The Contractor completing the Attachment A Enclosures is advised to contact the RTD's SBO at (303) 299-2111 if they have any questions or concerns prior to submitting bid/proposal documentation. Additional Attachment A documentation will not be accepted after the contractor submits their bid/proposal to RTD.*

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

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

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

Such a revised enclosure shall be incorporated into contract as an additional requirement.

3.9 *Reporting, audits, reviews and Orientation Requirements*

(i) *The Contractor shall submit at least monthly, a DBE Participation Report in the form set out in Appendix A (Form of DBE Participation Report). The Contractor shall submit each completed DBE Participation Report to RTD's SBO.*

(ii) *The Contractor acknowledges that the SBO has the right to independently confirm the information contained in the submitted DBE Participation Reports by soliciting such information from each DBE Subcontractor as may be required to verify payments received, distribution of payments received, subcontracting practices, participation credit, and sharing of resources/personnel. The Contractor shall not attempt to dissuade any such DBE contractor from*

disclosing any such information or cooperating in any investigation initiated by the SBO.

(iii) *The Contractor shall submit to RTD's SBO a Subcontractors Participation and Payment Form documenting all payments made to all DBEs and non-DBEs on a form provided/approved by RTD's SBO.*

(iv) *The DBE contractor shall submit to RTD's SBO a summary of payments received from its contractor, regardless of their lower tier, on a form approved by RTD's SBO.*

(v) *The DBE contractor may be selected to participate in a commercially useful function review or a DBE compliance review before their contract can be closed by RTD. DBEs are required to fully cooperate with RTD's SBO or its designee in the compliance review process. The commercially useful function review process will be initiated with a request for documents relating to contract performance and management of the actual work performed on the contract. The scope and intensity of each commercially useful function review will depend on the specific facts and circumstances. The commercially useful function is purposed to verify the amount of DBE participation credit, to ensure that work is actually performed by the DBE consistent with the DBE Program requirements and/or to ensure that there is no activity engaged in by the DBE that would be inconsistent with the intent and objectives of the DBE Program. The commercially useful function review is more formal and will be initiated with an orientation/explanation process and closed out with a briefing and determination. The DBE contractor may be subjected to an informal compliance review by RTD's SBO or its designee with or without notice. The informal compliance review will generally be conducted at the work site where RTD actually observes and assesses the services/supplies being provided by the DBE.*

(vi) The Contractor or any of its lower tier non-DBE subcontractors may be selected for a DBE compliance review to ensure that they are in compliance with the DBE Program requirements. This process will be initiated in a formal manner with written notice and instructions sent to the Contractor or its major subcontractor. The process will conclude with a close-out interview or debriefing where the Contractor or non-DBE firm will be given an opportunity to refute the determination or add to any corrective action requested by RTD. The contractor must cooperate with any DBE Program audit or compliance review. Failure to cooperate can result in part or all of the DBE participation credit being denied/removed from counting toward the DBE participation goal for the contract.

All DBEs are required to participate in the

RTD's DBE Orientation Program if awarded an RTD contract, subcontract or purchase order before commencing work or providing supplies on this contract. Failure to participate in the DBE orientation program may result in a denial of DBE participation credit for the project/contract. For good cause, the orientation may be delayed if pre-approved by RTD. DBEs may be required to repeat the orientation if there are changes to the DBE Program requirements, changes in the DBE regulations, changes in the DBE personnel, or if the DBE is experiencing challenges in complying with the reporting requirements.

ATTACHMENT A DBE ENCLOSURE CHECKLIST

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

[ ] **Form of DBE Participation**
This form must be submitted monthly by all prime contractors throughout the entire duration of the contract. This form needs to be submitted directly to the RTD SBO.

[ ] **Enclosure 1A: DBE Affidavit**
This form must be completed, signed and notarized by all Prime Contractors, whether DBE or not, to acknowledge the percentage of DBE participation and indicate intent to comply with the DBE goal

[ ] **Enclosure 1B: DBE Prime Affidavit**
This form must be completed, notarized and signed only if the bidder/proposer is a DBE submitting a proposal/bid as a Prime Contractor. This form, if applicable, must be submitted with a current DBE certificate by all **DBE prime contractors** to affirm DBE status.

[ ] **Enclosure 2: Schedule of DBE Participation**
This form must be submitted by all DBEs involved on the contract including a DBE prime contractor. It must contain the following information: names and addresses of certified DBE participating subcontractors, the work they are to perform and the dollar value of each proposed certified DBE contract. The Contractor subsequent to award must update and submit this form with the addition of each identified DBE firm. The Contractor is required to enter into subcontract agreements or issue purchase orders to all DBEs within thirty (30) days of notice to proceed.

[ ] **Enclosure 3: Letter of Intent to Perform as a Subcontractor**
This form must be submitted by the Contractor. It must contain the following information: names and addresses of certified DBE participating subcontractors, the work they are to perform and the dollar value of each proposed certified DBE contract and be signed by the DBE subcontractor. The Contractor subsequent to the award must submit this form with the addition of a DBE. A copy of the current DBE Certificate for each listed DBE subcontractor must be attached.

[ ] **Enclosure 4: Solicitation Statistics**
This form is for statistical purposes only. It is for the prime and all companies the prime receives bids from on subcontract work.

[ ] **Enclosure 5: Employer Certification of Workforce**

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

[ ] **Enclosure 6: Disadvantaged Business Outreach**
This form provides current outreach program information for contracted prime and subcontractors.

[ ] **Enclosure 7: Unavailability Certification**
This form must be submitted - along with complete documentation of good faith efforts - with the bid/proposal by a prime contractor who has failed to meet the specified DBE goal.

APPENDIX A

DENVER REGIONAL TRANSPORTATION DISTRICT

RTD

PRIME CONTRACTOR MONTHLY REPORT
FORM E REPORT OF PAYMENTS TO DBEs

CONTRACT INFORMATION

Original Contract Value: $ -
Change Orders Values: $ -
Current Contract Value: $ -
Total Payments Received To Date: $ -
Payments Received This Month: $ -
Start Date:
Completion Date:

Contract Duration:
Contract No.:
Report for Month of:
Name and Location of Project:
Name and Address of Prime Contractor:

Respond "Yes" or "No" to the Questions Below:

Did your firm or an affiliate rent or lease equipment or issue a joint check to a DBE? _____
Did any DBE utilize employees(or former employees) of your firm or an affiliate? _____
Did any DBE subcontract any portion of its work to a non-DBE since the last report firm? _____
Has the scope of work or subcontract amount changed for any DBE since the last report? _____

Name of DBE Subcontractor and/or Non DBE Subcontractor	Project Task	DBE or Non DBE	Original Contract Amount	Original Contract +/- Amount C O	Payment This Month	Billed This Month	Total Payments	Pending C.O.'s Amount and Date	Overall Work Completed %	Contract P.O. Submitted
TOTAL			$ -	$ -	$ -	$ -	$ -			

COMMENTS:

Prime Contractor Compliance Officer: _____ Telephone: _____

Signature: _____ Date: _____

By signing this form, I personally and on behalf of the contractor affirm that the information presented in this document is truthful, accurate, complete and not misleading.

[redacted]

FORM OF DBE PARTICIPATION REPORT

(This page intentionally left blank)

APPENDIX B- DBE ENCLOSURES

Enclosure 1a- DBE AFFIDAVIT

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

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

_____% - DBE (Disadvantaged Business Enterprise)

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

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

Business Name: _____

Contact Name: _____

Address: _____

City, State, ZIP: _____

Phone: _____ Fax: _____

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

_____ TO MAKE THIS AFFIDAVIT.

(Name of Business Entity)

_____ _____ _____

(Date) (Affiant Print Name) (Title)

_____

(Affiant's Signature)

State of _____:

City and County of _____:

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

In witness thereof, I hereunto set my hand and official seal. My Commission Expires:

_____

(Notary Public) (SEAL)

APPENDIX B- DBE ENCLOSURES

ENCLOSURE 1B- DBE AFFIDAVIT

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

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

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

whose address is _____

_____.
(Telephone No.)

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

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

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

_____
(Date) (Affiant Print Name) (Title)

_____
(Affiant's Signature)
State of _____:
City and County of _____:
On this _____ day of _____, _____, before me, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit, and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.
In witness thereof, I hereunto set my hand and official seal.

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

APPENDIX B – DBE ENCLOSURES

ENCLOSURE 2 – SCHEDULE OF [DBE] PARTICIPATION

NAME OF CONTRACTOR: [•]
RTD Contract No.
Total Proposed Cost: US$_____

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

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

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

(i) materials or supplies obtained from a DBE manufacturer will be counted at 100% toward the DBE Goal; and

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

3. Contractor must submit copies of all DBE subcontracts, purchase orders or change orders within 30 Days of execution of the notice to proceed. Failure to submit will result in a determination that no DBE participation credit shall a DBE work on the project or provide

equipment, materials or supplies for DBE participation credit without an executed subcontract agreement or purchase order.

APPENDIX B, ENCLOSURE 3 – LETTER OF INTENT TO PERFORM AS A DBE SUBCONTRACTOR

Contract No.

The undersigned [•] (the ***Contractor***) intends to engage the undersigned **DBE** to perform work in connection with the Project pursuant to a contract (the ***DBE Contract***) between the Contractor and the DBE as [*check one*]:

_____ an individual _____ a corporation

_____ a partnership _____ a joint venture

The DBE status of the undersigned DBE is confirmed on the attached schedule of DBE participation and represents a company that is certified as of the date on which the DBE Contract is executed.

Item	Projected Commencement Date	Projected Completion Date	Agreed Price to be Paid to DBE

_____% of the Dollar value of the DBE Contract will be sublet and/or awarded to non-DBE contractors and/or non-DBE suppliers. The undersigned Proposer and the undersigned DBE will enter into the DBE Contract for the above work conditioned upon the Proposer's execution of the Contract with RTD.

_____ _____

NAME OF CONTRACTOR NAME OF DBE FIRM

_____ _____

OWNER/REPRESENTATIVE OWNER/REPRESENTATIVE

_____ _____

ADDRESS ADDRESS

_____ _____

EMAIL ADDRESS EMAIL ADDRESS

_____ _____

SIGNATURE SIGNATURE

_____ _____

TITLE DATE TITLE DATE

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name:

Firm Address (Office Reporting):

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

RTD DBE _____ Non-DBE _____

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

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

U.S.$5 Million to U.S.$10 Million_____ U.S.$10 Million to U.S.$20.41 Million_____ Above U.S.$20.41 Million_____

Age of the firm: _____

Signature: _____

Name:

Title:

Date: _____

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

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APPENDIX B, ENCLOSURE 5 – EMPLOYER CERTIFICATION OF WORKFORCE[1]

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

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

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

Signature: _____
Name:
Title:

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

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

DESCRIPTION OF JOB CATEGORIES

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

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

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

Sales – Occupations engaging wholly or primarily in selling.

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

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

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

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

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

RACE/ETHNIC IDENTIFICATION

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

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

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

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

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

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

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APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number:

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

Proposer:

_____

Subcontractor – if applicable:

_____

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

_____

Phone: _____ Fax: _____

Email: _____

Website: _____

Currently Sponsored Disadvantaged Business Outreach Activities:

_____

_____

_____

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

_____

_____

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

If so, how? _____

_____

APPENDIX B, ENCLOSURE 7– DBE UNAVAILABILITY CERTIFICATION

I,_____, _____,
Name Title

of _____, certify that [*the Contractor*], made the following efforts to meet the DBE Goals on Regional Transportation District Contract No. for the Project:
[please attach any additional efforts that do not fit on this form]

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

- Newspaper Advertisement Log: (attach copies of ads)

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

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

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

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

- Solicited the following DBEs

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

- Followed up with initial contacts

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

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

Date	Organization	Phone #

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

Signature:_____

Date: _____

Exhibit G – FY2014 FTA Certifications and Assurances

(Separate PDF document)

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

Certifications and Assurances you select on its behalf, except as FTA determines otherwise in writing.

It is important that your Applicant and You also understand that these Certifications and Assurances are pre-award requirements, generally imposed by Federal law or regulation, and do not include all Federal requirements that may apply to it or its Project. Our FTA Master Agreement MA(20) for Federal FY 2014, available at http://www.fta.dot.gov, contains a list of most of those requirements.

We expect You to submit your Applicant's FY 2014 Certifications and Assurances and its applications for funding in TEAM-Web. You must be registered in TEAM-Web to submit the FTA FY 2014 Certifications and Assurances on its behalf. The TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of the "View/Modify Recipients" page contains fields for selecting among the twenty-four (24) Groups of Certifications and Assurances and a designated field for selecting all twenty-four (24) Groups of Certifications and Assurances. If FTA agrees that you cannot submit your Applicant's FY 2014 Certifications and Assurances electronically, you must submit the Signature Page(s) in Appendix A of this Notice, as FTA directs, marked to show the Groups of Certifications and Assurances it is submitting.

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

- *FTA's latest authorization legislation, Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, June 6, 2012,*
- *The Continuing Appropriations Act, 2014, Pub. L. 113-46, October 17, 2013,*
- *The Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. 113-6, March 26, 2013,*
- *The Continuing Appropriations Resolution, 2013 (CR), Pub. L. 112-175, September 28, 2012, and*
- *FTA's authorizing legislation in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.*

With certain exceptions, Projects financed in FY 2014 with funds appropriated or made available for FY 2012 or a previous fiscal year must be in compliance with the requirements for that type of Project in effect during the fiscal year for which the funding was derived, except as superseded by MAP-21 cross-cutting requirements that apply.

GROUP 01. REQUIRED CERTIFICATIONS AND ASSURANCES FOR EACH APPLICANT.

Before FTA may provide funding for your Applicant's Project, in addition to any other Certifications and Assurances that you must select on behalf of your Applicant, you must also select the Certifications and Assurances in Group 01, except as FTA determines otherwise in writing.

Your Applicant is ultimately responsible for compliance with the Certifications and

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

PREFACE

Except as the Federal Transit Administration (FTA or We) determines otherwise in writing, before FTA may award Federal transit assistance (funding or funds) to support a public transportation Project, an Authorized Representative (You) of the Project sponsor (Applicant) must select certain Certifications and Assurances required by Federal law or regulation. The Authorized Representative must be duly authorized by the Applicant to, among other things, sign these Certifications and Assurances and bind the Applicant's compliance. You, as the Authorized Representative, must select all Certifications and Assurances required of your Applicant (or it) to support its applications for FTA funding during Federal fiscal year (FY) 2014.

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

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

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

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

If your Applicant is a team, a consortium, a joint venture, or a partnership, it understands and agrees that you must identify the activities each member will perform and the extent to which each member will be responsible for compliance with the

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

1.A. Assurance of Authority of the Applicant and Its Authorized Representative.

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

1. Execute and file its application for Federal funds,
2. Execute and file its Certifications, Assurances, and Agreements binding its compliance,
3. Execute Grant Agreements or Cooperative Agreements, or both, with FTA,
4. Comply with applicable Federal laws and regulations, and
5. Follow applicable Federal guidance.

1.B. Standard Assurances.

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

1. It will comply with all applicable Federal statutes and regulations to carry out any FTA funded Project,
2. It is under a continuing obligation to comply with the terms and conditions of the FTA Grant Agreement or Cooperative Agreement for its Project, including the FTA Master Agreement incorporated by reference and made part of the latest amendment to that Grant Agreement or Cooperative Agreement,
3. It recognizes that Federal laws and regulations may be amended from time to time and those amendments may affect Project implementation,
4. It understands that Presidential executive orders and Federal guidance, including Federal policies and program guidance, may be issued concerning matters affecting it or its Project,
5. It agrees that the most recent Federal laws, regulations, and guidance will apply to its Project, except as FTA determines otherwise in writing,
6. In light of recent FTA legislation applicable to FTA, except as FTA determines otherwise in writing, it agrees that requirements for FTA programs may vary depending on the fiscal year for which the funding for those programs was appropriated:
    a. In some instances, FTA has determined that Federal statutory or regulatory

program and eligibility requirements for FY 2012 or a specific previous fiscal year, except as superseded by applicable MAP-21 cross-cutting requirements, apply to:

(1) New grants and cooperative agreements, and
(2) New amendments to grants and cooperative agreements that:
  (a) Have been awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, or
  (b) May be awarded Federal funds appropriated or made available for FY 2012 or the previous fiscal year, but

b. In other instances, FTA has determined that MAP-21 will apply to the Federal funds appropriated or made available for FY 2012 or a previous fiscal year, and
c. For all FTA funded Projects, the following MAP-21 cross-cutting requirements supersede conflicting provisions of previous Federal law and regulations:
  (1) Metropolitan and Statewide and Nonmetropolitan Transportation Planning,
  (2) Environmental Review Process,
  (3) Public Transportation Agency Safety Plans,
  (4) Transit Asset Management Provisions (and Asset Inventory and Condition Reporting),
  (5) Costs Incurred by Providers of Public Transportation by Vanpool,
  (6) Revenue Bonds as Local Match,
  (7) Debt Service Reserve,
  (8) Government's Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance,
  (9) Private Sector Participation,
  (10) Bus Testing,
  (11) Buy America,
  (12) Corridor Preservation,
  (13) Rail Car Procurements,
  (14) Veterans Preference/Employment,
  (15) Alcohol and Controlled Substance Testing, and
  (16) Other provisions as FTA may determine.[1]

1.C. Intergovernmental Review Assurance.

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

As required by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, on behalf of your Applicant, you assure that your Applicant has

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

submitted or will submit each application for Federal funding to the appropriate State and local agencies for intergovernmental review, to facilitate compliance with those regulations.

1.D. Nondiscrimination Assurance.

On behalf of your Applicant, you assure that:

1. It will comply with the following laws and regulations so that no person in the United States will be denied the benefits of, or otherwise be subjected to, discrimination in any U.S. DOT or FTA funded program or activity (particularly in the level and quality of transportation services and transportation-related benefits) on the basis of race, color, national origin, religion, sex, disability, or age:
   a. Federal transit laws, specifically 49 U.S.C. 5332(prohibiting discrimination on the basis of race, color, religion, national origin, sex, disability, age, employment, or business opportunity),
   b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d,
   c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*,
   d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
   e. U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR part 21,
   f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
   g. Any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated,
2. It will comply with Federal guidance implementing Federal nondiscrimination laws and regulations, except to the extent FTA determines otherwise in writing,
3. As required by 49 CFR 21.7:
   a. It will comply with 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 in the manner:
      (1) It conducts each Project,
      (2) It undertakes property acquisitions, and
      (3) It operates its Project facilities, including:
         (a) Its entire facilities, and
         (b) Its facilities operated in connection with its Project,
   b. This assurance applies to its entire Project and to all parts of its facilities, including the facilities it operates to implement its Project,
   c. It will promptly take the necessary actions to carry out this assurance, including:
      (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
      (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request,
   d. If it transfers FTA funded real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:

(1) While the property is used for the purpose that the Federal funding is extended, and
(2) While the property is used for another purpose involving the provision of similar services or benefits,

e. The United States has a right to seek judicial enforcement of any matter arising under:
(1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
(2) U.S. DOT regulations, 49 CFR part 21, and
(3) This assurance,

f. It will make any changes in its Title VI implementing procedures, as U.S. DOT or FTA may request, to comply with:
(1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
(2) U.S. DOT regulations, 49 CFR part 21, and
(3) Federal transit laws, 49 U.S.C. 5332,

g. It will comply with Federal guidance issued to implement Federal nondiscrimination requirements, except as FTA determines otherwise in writing,

h. It will extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each Third Party Participant, including any:
(1) Subrecipient,
(2) Transferee,
(3) Third Party Contractor or Subcontractor at any tier,
(4) Successor in Interest,
(5) Lessee, or
(6) Other participant in its Project, except FTA and the Applicant (that later becomes the Recipient),

i. It will include adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party agreement, including each:
(1) Subagreement at any tier,
(2) Property transfer agreement,
(3) Third party contract or subcontract at any tier,
(4) Lease, or
(5) Participation agreement, and

j. The assurances you have made on its behalf remain in effect as long as FTA determines appropriate, including, for example, as long as:
(1) Federal funding is extended to its Project,
(2) Its Project property is used for a purpose for which the Federal funding is extended,
(3) Its Project property is used for a purpose involving the provision of similar services or benefits,
(4) It retains ownership or possession of its Project property, or
(5) FTA may otherwise determine in writing, and

4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR 27.9, and consistent with 49 U.S.C.

5307(c)(1)(D)(ii), you assure that:

a. It will comply with the following prohibitions against discrimination on the basis of disability listed in Group1.D.4.b below, of which compliance is a condition of approval or extension of any FTA funding awarded to:
   (1) Construct any facility,
   (2) Obtain any rolling stock or other equipment,
   (3) Undertake studies,
   (4) Conduct research, or
   (5) Participate in or obtain any benefit from any FTA administered program, and
b. In any program or activity receiving or benefiting from Federal funding that U.S. DOT administers, no qualified people with a disability will, because of their disability, be:
   (1) Excluded from participation,
   (2) Denied benefits, or
   (3) Otherwise subjected to discrimination.

1.E. Suspension and Debarment Certification.

On behalf of your Applicant, you certify that:

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
   a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
      (1) Debarred,
      (2) Suspended,
      (3) Proposed for debarment,
      (4) Declared ineligible,
      (5) Voluntarily excluded, or
      (6) Disqualified,
   b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
      (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
      (2) Violation of any Federal or State antitrust statute, or
      (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
   c. It is not presently indicted for, or otherwise criminally or civilly charged by a

governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 1.E.2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
   (1) Equals or exceeds $25,000,
   (2) Is for audit services, or
   (3) Requires the consent of a Federal official, and
g. It will require that each covered lower tier contractor and subcontractor:
   (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
   (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
      (a) Debarred from participation in its federally funded Project,
      (b) Suspended from participation in its federally funded Project,
      (c) Proposed for debarment from participation in its federally funded Project,
      (d) Declared ineligible to participate in its federally funded Project,
      (e) Voluntarily excluded from participation in its federally funded Project, or
      (f) Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group 01.E.

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

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

1. *Administrative Activities.* On behalf of your Applicant, you assure that:
   a. For every Project described in any application it submits, it has adequate resources to properly plan, manage, and complete its Project, including the:
      (1) Legal authority to apply for Federal funding,
      (2) Institutional capability,
      (3) Managerial capability, and
      (4) Financial capability (including funds sufficient to pay the non-Federal share of Project cost),
   b. It will give limited access and the right to examine Project-related materials to

entities or individuals, as required, including, but not limited to the:
(1) FTA,
(2) The Comptroller General of the United States, and
(3) State, through an authorized representative, if appropriate,

c. It will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance, and
d. It will establish safeguards to prohibit employees from using their positions for a purpose that results in:
(1) A personal or organizational conflict of interest, or personal gain, or
(2) The appearance of a personal or organizational conflict of interest or personal gain,

2. *Project Specifics.* On behalf of your Applicant, you assure that:
a. Following receipt of an FTA award, it will begin and complete Project work within the time periods that apply,
b. For FTA funded construction Projects:
(1) It will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
(2) It will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms with the approved plans and specifications,
(3) It will include a covenant to assure nondiscrimination during the useful life of its Project in its title to federally funded real property,
(4) To the extent FTA requires, it will record the Federal interest in the title to FTA funded real property or interests in real property, and
(5) It will not alter the site of the FTA funded construction Project or facilities without permission or instructions from FTA by:
(a) Disposing of the underlying real property or other interest in the site and facilities,
(b) Modifying the use of the underlying real property or other interest in the site and facilities, or
(c) Changing the terms of the underlying real property title or other interest in the site and facilities, and

c. It will furnish progress reports and other information as FTA or the State may require, and

3. *Statutory and Regulatory requirements.* On behalf of your Applicant, you assure that:
a. It will comply with all Federal statutes relating to nondiscrimination that apply, including, but not limited to:
(1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
(2) The prohibitions against discrimination on the basis of sex, as provided in:
(a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 – 1683, and 1685 – 1687, and
(b) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,

(3) The prohibitions against discrimination on the basis of age in federally funded programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 – 6107,
(4) The prohibitions against discrimination on the basis of disability in federally funded programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794,
(5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
(6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*,
(7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*,
(8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*,
(9) The confidentiality requirements for records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. 290dd – 290dd-2, and
(10) The nondiscrimination provisions of any other statute(s) that may apply to its Project,

b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. 4601 *et seq.*, and 49 U.S.C. 5323(b), regardless of whether Federal funding has been provided for any of the real property acquired for Project purposes:
   (1) It will provide for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of federally funded programs, and
   (2) It has the necessary legal authority under State and local laws and regulations to comply with:
      (a) The Uniform Relocation Act. 42 U.S.C. 4601 *et seq.*, as specified by 42 U.S.C. 4630 and 4655, and
      (b) U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, specifically 49 CFR 24.4, and
   (3) It has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations because:
      (a) It will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24,
      (b) As required by 42 U.S.C. 4622, 4623, and 4624, and 49 CFR part 24, if an FTA funded Project results in displacement, it will provide fair and reasonable relocation payments and assistance to:
         1 Displaced families or individuals, and

2 Displaced Partnerships, corporations, or associations,

(c) As provided by 42 U.S.C. 4625 and 49 CFR part 24, it will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such displaced:

1 Families and individuals, and

2 Partnerships, corporations, or associations,

(d) As required by 42 U.S.C. 4625(c)(3), within a reasonable time before displacement, it will make available comparable replacement dwellings to families and individuals,

(e) It will:

1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and

2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin,

(f) It will be guided by the real property acquisition policies of 42 U.S.C. 4651 and 4652,

(g) It will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will provide Federal funding for its eligible costs for providing payments for those expenses, as required by 42 U.S.C. 4631,

(h) It will execute the necessary implementing amendments to FTA funded third party contracts and subagreements,

(i) It will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances,

(j) It will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, relating to any FTA funded Project involving relocation or land acquisition, and

(k) It will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions,

c. It will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures,

d. It will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by Federal funding of:

(1) The National Research Act, as amended, 42 U.S.C. 289 *et seq.*, and

(2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11,

e. It will, to the extent applicable, comply with the labor standards and protections for federally funded Projects of:

(1) The Davis-Bacon Act, as amended, 40 U.S.C. 3141 – 3144, 3146, and 3147,

(2) Sections I and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and 40 U.S.C. 3145, respectively, and

(3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*,

f. It will comply with any applicable environmental standards that may be prescribed to implement Federal laws and executive orders, including, but not limited to:
   (1) Following the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 – 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note,
   (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. 7606 note,
   (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. 4321 note,
   (4) Following the evaluation of flood hazards in floodplains provisions of Executive Order No. 11988, 42 U.S.C. 4321 note,
   (5) Complying with the assurance of Project consistency with the approved State management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 – 1465,
   (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 – 7671q,
   (7) Complying with the protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6,
   (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 – 1544,
   (9) Complying with the environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation Project, as required by 49 U.S.C. 303,
   (10) Complying with the protections for national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 – 1287, and
   (11) Complying with and facilitating compliance with:
      (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f,
      (b) The Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 – 469c, and
      (c) Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note,

g. To the extent applicable, comply with the following Federal requirements for the care, handling, and treatment of warmblooded animals held or used for research, teaching, or other activities supported by Federal funding:
   (1) The Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and
   (2) U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR

subchapter A, parts 1, 2, 3, and 4,

h. To the extent applicable, obtain a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, "Seismic Safety," 49 CFR part 41, specifically 49 CFR 41.117(d), before accepting delivery of any FTA funded building,

i. Comply with, and assure that its Subrecipients located in special flood hazard areas comply with, section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), by:
   (1) Participating in the Federal flood insurance program, and
   (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is $10,000 or more,

j. Comply with:
   (1) The Hatch Act, 5 U.S.C. 1501 – 1508, 7324 – 7326, which limits the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds, including a Federal loan, grant agreement, or cooperative agreement, and
   (2) 49 U.S.C. 5323(l)(2) and 23 U.S.C. 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA funding appropriated or made available for 49 U.S.C. chapter 53 and 23 U.S.C. 142(a)(2) to whom the Hatch Act does not otherwise apply,

k. Perform the financial and compliance audits as required by the:
   (1) Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*,
   (2) U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and
   (3) Most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT,

l. Comply with all other Federal laws or regulations that apply, and

m. Follow Federal guidance governing it and its Project, except to the extent that FTA has expressly approved otherwise in writing.

GROUP 02. LOBBYING.

Before FTA may provide funding for a Federal grant or cooperative agreement exceeding $100,000 or a Federal loan, line of credit, loan guarantee, or loan insurance exceeding $150,000, in addition to other Certifications and Assurances you must select on your Applicant's behalf, you must also select the Lobbying Certifications in Group 02, unless your Applicant is an Indian Tribe exempt from the requirements of 31 U.S.C. 1352 or FTA determines otherwise in writing.

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

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

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

On behalf of your Applicant, you certify that:

1. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110:
   a. The lobbying restrictions of this Certification apply to its requests:
      (1) For $100,000 or more in Federal funding for a grant or cooperative agreement, and
      (2) For $150,000 or more in Federal funding for a loan, line of credit, or loan guarantee, and
   b. Your Certification on its behalf applies to the lobbying activities of:
      (1) It,
      (2) Its Principals, and
      (3) Its Subrecipients at the first tier,
2. To the best of your knowledge and belief:
   a. No Federal appropriated funds have been or will be paid by or on its behalf to any person to influence or attempt to influence:
      (1) An officer or employee of any Federal agency regarding the award of a:
         (a) Federal grant or cooperative agreement, or
         (b) Federal loan, line of credit, loan guarantee, or loan insurance, and
      (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
         (a) Federal grant or cooperative agreement, or
         (b) Federal loan, line of credit, loan guarantee, or loan insurance,
   b. It will submit a complete OMB Standard Form LLL (Rev. 7-97), "Disclosure of Lobbying Activities," consistent with its instructions, if any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
      (1) An officer or employee of any Federal agency regarding the award of a:
         (a) Federal grant or cooperative agreement, or
         (b) Federal loan, line of credit, loan guarantee, or loan insurance, and
      (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
         (a) Federal grant or cooperative agreement, or
         (b) Federal loan, line of credit, loan guarantee, or loan insurance, and
   c. It will include the language of this Certification in the award documents for all subawards at all tiers, including, but not limited to:
      (1) Third party contracts,
      (2) Subcontracts,
      (3) Subagreements, and

(4) Other third party agreements under a:
  (a) Federal grant or cooperative agreement, or
  (b) Federal loan, line of credit, loan guarantee, or loan insurance,

3. It understands that:
   a. This Certification is a material representation of fact that the Federal government relies on, and
   b. It must submit this Certification before the Federal government may award funding for a transaction covered by 31 U.S.C. 1352, including a:
      (1) Federal grant or cooperative agreement, or
      (2) Federal loan, line of credit, loan guarantee, or loan insurance, and
4. It also understands that any person who does not file a required Certification will incur a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

GROUP 03. PROCUREMENT AND PROCUREMENT SYSTEMS.

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

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

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

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

GROUP 04. PRIVATE SECTOR PROTECTIONS.

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

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or

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

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

4.A. Private Property Protections.

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

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

1. It has or will have:
   a. Determined that the funding is essential to carrying out a Program of Projects as required by 49 U.S.C. 5303, 5304, and 5306,
   b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
   c. Paid just compensation under State or local laws to the company for any franchise or property acquired, and
2. It has completed the actions described in Group 4.A.1 of this Certification before it:
   a. Acquires the property or an interest in the property of a private provider of public transportation, or
   b. Operates public transportation equipment or facilities:
      (1) In competition with transportation service provided by an existing public transportation operator, or
      (2) In addition to transportation service provided by an existing public transportation operator.

4.B. Charter Service Agreement.

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

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

1. FTA's "Charter Service" regulations apply as follows:

a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired by Recipients of FTA funding for transportation Projects with Federal funding derived from:
   (1) Federal transit laws, 49 U.S.C. chapter 53,
   (2) 23 U.S.C. 133 or 142, or
   (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
b. FTA's charter service restrictions extend to:
   (1) Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
      (a) Federal transit laws, 49 U.S.C. chapter 53,
      (b) 23 U.S.C. 133 or 142, or
      (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
   (2) Any Third Party Participant that receives Federal funding derived from:
      (a) Federal transit laws, 49 U.S.C. chapter 53,
      (b) 23 U.S.C. 133 or 142, or
      (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
c. A Third Party Participant includes any:
   (1) Subrecipient at any tier,
   (2) Lessee,
   (3) Third Party Contractor or Subcontractor at any Tier, and
   (4) Other Third Party Participant in its Project,
d. You and your Applicant agree that neither it nor any governmental authority or publicly owned operator that receives Federal public transportation assistance appropriated or made available for its Project will engage in charter service operations, except as permitted under:
   (1) Federal transit laws, specifically 49 U.S.C. 5323(d) and (g),
   (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. 5323(d) and (g),
   (3) Any other Federal Charter Service regulations, or
   (4) Federal guidance, except as FTA determines otherwise in writing,
e. You and your Applicant agree that the latest Charter Service Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
f. You and your Applicant agree that:
   (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives FTA funding appropriated or made available for its Project that has engaged in a pattern of violations of FTA's Charter Service regulations by:
      (a) Conducting charter operations prohibited by Federal transit laws and FTA's Charter Service regulations, or
      (b) Otherwise violating its Charter Service Agreement it has elected in its

latest annual Certifications and Assurances, and

(2) These corrective measures and remedies may include:

(a) Barring it or any Third Party Participant operating public transportation under the Project that has provided prohibited charter service from receiving FTA funds,

(b) Withholding an amount of Federal funds as provided by Appendix D to FTA's Charter Service regulations, or

(c) Any other appropriate remedy that may apply, and

2. In addition to the exceptions to the charter service restrictions in FTA's Charter Service Regulations, FTA has established the following additional exceptions to those restrictions:
   a. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5307 and 5311, to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under repealed 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, provided that it uses that FTA funding for those program purposes only,
   b. FTA's Charter Service restrictions do not apply to your Applicant if it seeks funding appropriated or made available for 49 U.S.C. 5310, to be used for New Freedom activities that would have been eligible for assistance under repealed 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, provided it uses that FTA funding for those program purposes only, and
   c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that Recipient provides a private intercity or charter transportation operator reasonable access to that Recipient's federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes, as provided in 49 U.S.C. 5323(r).

4.C. School Bus Agreement.

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

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

1. FTA's "School Bus Operations" regulations restrict school bus operations using facilities and equipment acquired with Federal funding derived from:
   a. Federal transit laws, 49 U.S.C. chapter 53,
   b. 23 U.S.C. 133 or 142, or
   c. Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
2. FTA's school bus operations restrictions extend to:

a. Your Applicant, when it becomes a Recipient of Federal funding appropriated or made available for:
   (1) Federal transit laws, 49 U.S.C. chapter 53,
   (2) 23 U.S.C. 133 or 142, or
   (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
b. Any Third Party Participant that receives Federal funding derived from:
   (1) Federal transit laws, 49 U.S.C. chapter 53,
   (2) 23 U.S.C. 133 or 142, or
   (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,

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

GROUP 05. ROLLING STOCK REVIEWS AND BUS TESTING.

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

Your Applicant is ultimately responsible for compliance with the Certifications and

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

5.A. Rolling Stock Reviews.

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

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

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

5.B. Bus Testing.

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

On behalf of your Applicant, you certify that:

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

model, and

b. It will not authorize final acceptance of the bus until:
   (1) The bus has been tested at FTA's bus testing facility, and
   (2) It has received a copy of the test report prepared on that new bus model,

3. It will ensure that the bus that is tested has met the performance standards consistent with those regulations, including:
   a. Performance standards for:
      (1) Maintainability,
      (2) Reliability,
      (3) Performance (including braking performance),
      (4) Structural integrity,
      (5) Fuel economy,
      (6) Emissions, and
      (7) Noise, and
   b. Minimum safety performance standards established under 49 U.S.C. 5329, and
4. After FTA has issued regulations authorized by 49 U.S.C. 5318(e)(2), it will ensure that the bus that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

GROUP 06. DEMAND RESPONSIVE SERVICE.

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

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

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

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

1. Your Applicant offers public transportation services equivalent in level and quality of service to:
   a. Individuals with disabilities, including individuals who use wheelchairs, and
   b. Individuals without disabilities, and
2. Viewed in its entirety, its service for individuals with disabilities is:

a. Provided in the most integrated setting feasible, and
b. Equivalent to the service it offers individuals without disabilities with respect to:
   (1) Response time,
   (2) Fares,
   (3) Geographic service area,
   (4) Hours and days of service,
   (5) Restrictions on priorities based on trip purpose,
   (6) Availability of information and reservation capability, and
   (7) Constraints on capacity or service availability.

GROUP 07. INTELLIGENT TRANSPORTATION SYSTEMS.

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

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

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

On behalf of your Applicant, you and your Applicant:

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

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

Before FTA may provide funding appropriated or made available for 49 U.S.C.

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

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

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

8.A. Interest and Financing Costs.

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

On behalf of your Applicant, you certify that:

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

8.B. Acquisition of Capital Assets by Lease.

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

applies to your Applicant, except as FTA determines otherwise in writing.

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

1. It will not use Federal funding appropriated or made available for public transportation projects eligible under 49 U.S.C. chapter 53 or any other applicable law to finance the cost of leasing any capital asset until:
   a. It performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset, and
   b. It completes these calculations before the later of:
      (1) Entering into the lease, or
      (2) Receiving a capital grant for the asset, and
2. It will not enter into a capital lease for which FTA can provide only incremental Federal funding unless it has adequate financial resources to meet its future lease obligations if Federal funding is not available.

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

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

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

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

9.A. Transit Asset Management Plan.

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

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

1. Follow Federal guidance when issued that implements transit asset management system provisions of 49 U.S.C. 5326, except as FTA determines otherwise in writing,

and
2. Comply with the final Federal regulations when issued that implement the transit asset management provisions of 49 U.S.C. 5326.

9.B. Public Transportation Agency Safety Plan.

If your Applicant applies for funding under 49 U.S.C. chapter 53 and it is a State government, local government, or any other operator of a public transportation system, the Public Transportation Safety Plan Certifications in Group 09.B apply to your Applicant, except as FTA determines otherwise in writing.

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

GROUP 10. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

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

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

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

As required by 49 U.S.C. 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655, subpart I, specifically 49 CFR 655.83, on behalf of your Applicant, including a State Applicant, and on behalf of its Subrecipients and Third Party Contractors, you certify that:
1. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have established and implemented:
   a. An alcohol misuse testing program, and
   b. A controlled substance testing program,
2. Your Applicant, its Subrecipients, and Third Party Contractors to which these testing

requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. 5331, and

3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Applicant, its Subrecipients, or Third Party Contractors to which these testing requirements apply reside in a State that permits marijuana use for medical or recreational purposes, your Applicant, its Subrecipients, and Third Party Contractors to which these testing requirements apply have complied or will comply with the Federal controlled substance testing requirements of 49 CFR part 655.

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

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

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

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

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

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

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

b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

GROUP 12. STATE OF GOOD REPAIR PROGRAM.

Certain Certifications and Assurances listed previously are required for the State of Good Repair Program funding under 49 U.S.C. 5337.

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

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

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

On behalf of your Applicant, you certify that:

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

GROUP 13. FIXED GUIDEWAY MODERNIZATION GRANT PROGRAM.

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

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

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

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

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

The Certifications in Group 14 are required for funding under:

14.A. The Bus and Bus Facilities Formula Grants Program, 49 U.S.C. 5339, as amended by MAP-21, and

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

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

Your Applicant is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project, itself, any Subrecipient, or

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

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

14.A. Bus and Bus Facilities Formula Grants Program

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

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

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

funding available to it under 49 U.S.C. 5339,

b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other United States Government sources,
f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
g. Has made or will make the final Program of Projects available to the public,

7. As required by 49 U.S.C. 5307(d), it:
   a. Has or will have the amount of funds required for the local share,
   b. Will provide the local share funds from sources approved by FTA, and
   c. Will provide the local share funds when needed,
8. It will comply with:
   a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
   b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
9. It has a locally developed process to solicit and consider public comment before:
   a. Raising a fare, or
   b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d)..

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

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

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

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

The Certifications in Group 15 are required for funding under:

15.A. The Urbanized Area Formula Grants Program financed with funds appropriated or made available for 49 U.S.C. 5307, as amended by MAP-21, which among other things, authorizes funding for Job Access and Reverse Commute (JARC) Projects and Project Activities,

15.B. The Urbanized Area Formula Grants Program financed with funds appropriated or made available for former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply,

15.C. The Passenger Ferry Grant Program financed with funds appropriated or made available for 49 U.S.C. 5307(h), as amended by MAP-21, and

15.D. The Job Access and Reverse Commute (JARC) Formula Grant Program financed with funds appropriated or made available for former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.

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

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

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

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

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

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

individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,

d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by FTA under 49 U.S.C. 5336 with transportation services supported by other United States Government sources,
f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
g. Has made or will make the final Program of Projects available to the public,

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

as defined in 49 U.S.C. 5302(1),

b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
   (1) A list of its Associated Transit Improvement Projects or Project Activities during that Federal fiscal year using those 49 U.S.C. 5307 funds, or
   (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the funding apportioned to the area for Associated Transit Improvement Projects or Project Activities, or have included the same information in a separate report attached in TEAM-Web, and

c. The report of its Associated Transit Improvement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and

12. It will comply with the final Federal regulations, when issued, that implement the safety requirements of 49 U.S.C. § 5329(d).

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

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

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

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

   d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under former 49 U.S.C. 5307 in effect in FY 2012 or a previous fiscal year, it will comply with the following provisions as amended by MAP-21:
   a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
   b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
   c. "Buy America" under 49 U.S.C. 5323(j),
   d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
   e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
   f. "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
   a. Has or will make available to the public information on amounts available to it under 49 U.S.C. 5307 and the Program of Projects it proposes to undertake,
   b. Will develop or has developed, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be financed,
   c. Will publish or has published a proposed Program of Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the Applicant or Recipient's performance,
   d. Will provide or has provided an opportunity for a public hearing in which to obtain the views of citizens on the proposed Program of Projects,
   e. Will ensure or has ensured that the proposed Program of Projects provides for the coordination of public transportation services assisted under 49 U.S.C. 5336 with transportation services assisted from other U.S. Government sources,
   f. Will consider or has considered comments and views received, especially those of private transportation providers, in preparing the final Program of Projects, and
   g. Will make or has made the final Program of Projects available to the public,
8. It:
   a. Has or will have the amount of funds required for the local share,
   b. Will provide the local share funds from sources approved by FTA, and
   c. Will provide the local share funds when needed,
9. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
10. It has a locally developed process to solicit and consider public comment before:
   a. Raising a fare, or
   b. Implementing a major reduction of public transportation,
11. Each fiscal year:
   a. At least one (1) percent of the 49 U.S.C. 5307 funding apportioned to an urbanized area must be spent for public transportation security Projects (limited to capital Projects if it serves an urbanized area with a population of 200,000 or

more), including:

(1) Increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages),
(2) Increased camera surveillance of an area in or adjacent to that system,
(3) Emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and
(4) Any other Project intended to increase the security and safety of an existing or planned public transportation, or

b. It will certify that such expenditures for transportation security Projects are not necessary (Information about its intentions must be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when it submits its Urbanized Area Formula Grants Program application in TEAM-Web),

12. If it serves an urbanized area with a population of at least 200,000 individuals:
    a. Each fiscal year, it will ensure that at least one (1) percent of the amount apportioned to the urbanized area is spent for Transit Enhancements, as defined in former 49 U.S.C. 5302(a)(15),
    b. It will include in its quarterly report for the fourth quarter of the preceding Federal fiscal year:
        (1) A list of its Transit Enhancement Project Activities during that Federal fiscal year using those former 49 U.S.C. 5307 funds, or
        (2) Sufficient information to demonstrate that the Designated Recipients in its urbanized area together have spent one (1) percent of the amount of funding that must be made available to them for Transit Enhancements or have included the same information in a separate report attached in TEAM-Web, and
    c. The report of its or the Designated Recipients' Transit Enhancement Projects or Project Activities is or will be incorporated by reference and made part of its Certifications and Assurances, and
13. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

C. Passenger Ferry Grant Program.

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

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

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

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

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

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

1. The following Certifications for the Job Access and Reverse Commute (JARC) Formula Grant Program are required by former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements

that apply. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:

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

2. The following Certifications for the JARC Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:
   a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
      (1) The legal capacity,

(2) The financial capacity, and
(3) The technical capacity,

b. It has or will have, and will require each Subrecipient to have satisfactory continuing control over the use of Project equipment and facilities,
c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
d. To the extent applicable, it will ensure, and will require each Subrecipient to ensure, that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5316 the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
   (1) Any elderly individual,
   (2) Any handicapped individual, as described in 49 CFR part 27,
   (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
   (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
e. When carrying out a procurement under former 49 U.S.C. 5316, it will comply with the following provisions as amended by MAP-21:
   (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
   (2) The prohibition against exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
   (3) "Buy America" under 49 U.S.C. 5323(j),
   (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m), and
   (5) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
f. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
g. It:
   (1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5316,
   (2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
   (3) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds when needed,
h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
i. It has or will have, and will require each Subrecipient to have, a locally developed process to solicit and consider public comment before:
   (1) Raising a fare, or
   (2) Implementing a major reduction of public transportation, and
j. To the extent applicable, it will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

GROUP 16. SENIORS/ELDERLY/INDIVIDUALS WITH DISABILITIES

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

AND NEW FREEDOM PROGRAMS.

The Certifications in Group 16 are required for funding under:

16.A. The Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, financed or to be financed with funds appropriated or made available for 49 U.S.C. 5310, as amended by MAP-21, which among other things authorizes funding for New Freedom Projects and Project Activities,

16.B. The Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, and

16.C. The New Freedom Program financed or to be financed with funds appropriated or made available for former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.

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

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

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

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

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

1. The following Certifications for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. 5310. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
   a. Each of its Subrecipients is:

(1) A private nonprofit organization, or
(2) A State or local governmental authority that:
  (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
  (b) Certifies that there are no private nonprofit organizations readily available in the area to provide the services authorized for support under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program,

b. It will comply with the following Project selection and planning requirements:
  (1) The Projects it has selected or will select for funding appropriated or made available for 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
    (a) Locally developed, and
    (b) Coordinated,
  (2) The public transit-human services transportation plan was developed and approved through a process that included participation by:
    (a) Seniors,
    (b) Individuals with disabilities,
    (c) Representatives of public, private, and nonprofit transportation providers,
    (d) Representatives of public, private, and nonprofit human services providers, and
    (e) Other members of the public,
  (3) The transportation projects to assist in providing transportation services for seniors and individuals with disabilities are included in a program of projects,
  (4) A program of projects under Group 16.A.1.b(3) above is or will be submitted annually to FTA, and
  (5) To the maximum extent feasible, the services funded by 49 U.S.C. 5310 will be coordinated with transportation services funded by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services,

c. As required by 49 U.S.C. 5310(e)(2)(B), it certifies that if it allocates funds received under 49 U.S.C. 5310, to Subrecipients, it will have allocated those funds on a fair and equitable basis,

d. It will transfer a facility or equipment financed with funding appropriated or made available for a grant under 49 U.S.C. 5310, to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, only if:
  (1) The recipient in possession of the facility or equipment consents to the transfer, and
  (2) The facility or equipment will continue to be used as required under 49 U.S.C. 5310,

e. As required by 49 U.S.C. 5310(b)(2), it will use at least fifty-five (55) percent of the funds on capital projects to meet the special needs of seniors and disabled, and

f. The requirements of 49 U.S.C. 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with

Disabilities, authorized by 49 U.S.C. 5310, and

2. FTA has determined certain requirements of 49 U.S.C. 5307, to be appropriate for which some require Certifications. Therefore, as specified under 49 U.S.C. 5307(c)(1), it certifies that:
   a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
      (1) Legal capacity,
      (2) Financial capacity, and
      (3) Technical capacity,
   b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
   c. It will maintain, and will require each Subrecipient to maintain its Project equipment and facilities adequately,
   d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, it will, and will require each Subrecipient to comply with the:
      (1) General Provisions of 49 U.S.C. 5323, and
      (2) Third Party Contract Provisions of 49 U.S.C. 5325,
   e. It has complied or will comply with, and will require each Subrecipient to comply with:
      (1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
      (2) The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304, and
   f. To the extent applicable, it will comply with, and require its Subrecipients to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

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

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

1. The following Certifications for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:
   a. Each of your State Applicant's Subrecipients is:
      (1) A private nonprofit organization, if the public transportation service that

would undertake public transportation capital Project(s) planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities is:
(a) Unavailable,
(b) Insufficient, or
(c) Inappropriate, or

(2) A State or local governmental authority that:
(a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
(b) Certifies that there are not any nonprofit organizations readily available in the area to provide public transportation capital Projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities,

b. The Projects your State Applicant has selected or will select for funding appropriated or made available for former 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
(1) Locally developed, and
(2) Coordinated,

c. That public transit-human services transportation plan was developed and approved through a process that included participation by:
(1) Elderly Individuals,
(2) Individuals with disabilities,
(3) Representatives of public, private, and nonprofit transportation providers,
(4) Representatives of human services providers, and
(5) Other members of the public,

d. If your State Applicant allocates funds received under former 49 U.S.C. 5310 to Subrecipients, your State Applicant will have allocated those funds on a fair and equitable basis,

e. The Program of Projects your State Applicant has submitted or will submit contains or will contain an assurance that the Program provides for the maximum feasible coordination of transportation services funded by former 49 U.S.C. 5310 with transportation services funded by other Government sources,

f. If your State Applicant transfers former 49 U.S.C. 5310 funds to another Project funded under 49 U.S.C. 5336 in accordance with former 49 U.S.C. 5310(b)(2), the Project for which the funds are requested has been coordinated with private nonprofit providers of service under former 49 U.S.C. 5310, and

g. It will comply with the requirements of former 49 U.S.C. 5307 that FTA determined will apply to the former Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program,

2. The following Certifications for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5307(d)(1). Therefore, except as FTA determines otherwise in writing, on behalf of your State Applicant, you certify that:

a. Your State Applicant and each of its Subrecipients have or will have the following to carry out its proposed Project(s), including the safety and security

aspects of the proposed Project(s):
(1) Legal capacity,
(2) Financial capacity, and
(3) Technical capacity,

b. Your State Applicant and each Subrecipient has or will have satisfactory continuing control over the use of Project equipment and facilities,
c. Your State Applicant and each of its Subrecipients will maintain its Project equipment and facilities adequately,
d. When carrying out a procurement under former 49 U.S.C. 5310, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
   (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
   (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
   (3) "Buy America" under 49 U.S.C. 5323(j),
   (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
   (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
   (6) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
f. Your State Applicant:
   (1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5310(c)(2),
   (2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
   (3) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds when needed,
g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and
h. To the extent applicable, your State Applicant will comply with and, as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

16.C. New Freedom Program.

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

1. Former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year requires the following Certification for the New Freedom Program. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
   a. It will make awards of New Freedom funding on a competitive basis after conducting:

(1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5317(d)(1), or
(2) A statewide solicitation for applications for New Freedom funding in compliance with former 49 U.S.C. 5317(d)(2),

b. Any allocations to Subrecipients of New Freedom funding authorized by former 49 U.S.C. 5317 will be distributed on a fair and equitable basis,
c. It will comply with the following Project selection and planning requirements:
(1) The Projects it has selected or will select for funding appropriated or made available for that program were derived from a public transit-human services transportation plan that has been:
(a) Locally developed, and
(b) Coordinated,
(2) That locally developed and coordinated plan was produced through a process that included:
(a) Representatives of public, private, and nonprofit transportation providers,
(b) Representatives of public, private, and nonprofit human services providers, and
(c) Participation by the public,
d. Before it transfers funds to a Project funded by former 49 U.S.C. 5311(c), former 49 U.S.C. 5336, or both:
(1) The funding to be transferred may be made available only to Projects eligible for funding appropriated or made available for former 49 U.S.C. 5317, and
(2) It will have consulted with responsible local officials and publicly owned operators of public transportation in each area for which the amount to be transferred was originally awarded,
e. The requirements of former 49 U.S.C. 5307 and 5310, as determined by FTA, will apply to the New Freedom Program, authorized by former 49 U.S.C. 5317, and

2. The following Certifications for the New Freedom Program are required by former 49 U.S.C. 5307(d)(1) and 5310. Therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:
a. It has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
(1) Legal capacity,
(2) Financial capacity, and
(3) Technical capacity,
b. It has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
c. It will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
d. When carrying out a procurement under former 49 U.S.C. 5317, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
(1) Competitive procurement (as defined or approved by FTA), as required by

49 U.S.C. 5325(a),

(2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),

(3) "Buy America" under 49 U.S.C. 5323(j),

(4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),

(5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and

(6) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),

e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,

f. It:

(1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share required by former 49 U.S.C. 5317(g),

(2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and

(3) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds when needed,

g. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304, and

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

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

The Certifications in Group 17 are required for funding under:

17.A. The Formula Grants for Rural Areas Program financed with funding appropriated or made available for 49 U.S.C. 5311(b), as amended by MAP-21, (Separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a Public Transportation on Indian Reservations Project financed with funding made available for 49 U.S.C. 5311(c))(1), as amended by MAP-21.)

17.B. The Formula Grants for Other Than Urbanized Areas Program financed with funding appropriated or made available for former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply, (Separate Certifications and Assurances have been established in Group 18 for an Indian tribe that is an Applicant for a "Tribal Transit" Project financed with funding made available for former 49 U.S.C. 5311(c)(1) in effect in FY 2012 or a previous fiscal year.)

17.C. The Appalachian Development Public Transportation Assistance Program financed with funding appropriated or made available for 49 U.S.C. 5311(c)(2), as amended by MAP-21, and

17.D. The Over-the-Road Bus Accessibility Program financed with funding appropriated or made available for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, 49 U.S.C. 5310 note, except as superseded by

MAP-21 cross-cutting requirements that apply.

(Separate Certifications and Assurances have been established for an Indian tribe that is an Applicant for a Tribal Transit Project financed with funding made available for 49 U.S.C. 5311(c).)

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

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

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

17.A. Formula Grants for Rural Areas Program.

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

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

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its State program has provided for a fair distribution of Federal funding appropriated or made available for 49 U.S.C. 5311(b), within the State, including Indian reservations,
5. Its program provides or will provide the maximum feasible coordination of public transportation service funded by 49 U.S.C. 5311(b), with transportation service funded by other Federal sources,

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

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

If your Applicant seeks FTA funding for its Project under the Formula Grants for Other Than Urbanized Areas Program, former 49 U.S.C. 5311 in effect in FY 2012 or a previous fiscal year, the Certifications in Group 17.B apply to your Applicant, except as FTA determines otherwise in writing.

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

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

   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its State program required under former 49 U.S.C. 5311(b)(2) has provided for a fair distribution of Federal funding appropriated or made available for former 49 U.S.C. 5311(b), within the State, including Indian reservations,
5. Its State program required under former 49 U.S.C. 5311(b)(2) provides or will provide the maximum feasible coordination of public transportation service funded by former 49 U.S.C. 5311(b), with transportation service funded by other Federal sources,
6. Its Projects in its Formula Grants for Other than Urbanized Areas Program are included in:
   a. The Statewide Transportation Improvement Program, and
   b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. It:
   a. Has or will have the amount of funds required for the local share, as required by former 49 U.S.C. 5311(g),
   b. Will provide the local share funds sources approved by FTA, and
   c. Will provide the local share funds when needed,
8. It may transfer a facility or equipment acquired using a grant under former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
   a. The Recipient in possession of the facility or equipment consents to the transfer, and
   b. The facility or equipment will continue to be used as required under former 49 U.S.C. 5311, and
9. Each fiscal year:
   a. It will spend at least fifteen (15) percent of its former 49 U.S.C. 5311 funding available for that fiscal year to develop and support intercity bus transportation within the State with eligible activities, including:
      (1) Planning and marketing for intercity bus transportation,
      (2) Capital grants for intercity bus shelters,
      (3) Joint-use stops and depots,
      (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
      (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
   b. It will provide to the Federal Transit Administrator a Certification from the Chief Executive Officer of the State that:
      (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
      (2) The State's intercity bus service needs are being met adequately.

17.C. Appalachian Development Public Transportation Assistance Program.

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

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

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

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

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

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

It assures that the Federal requirements for the Over-the-Road Bus Accessibility Program during FY 2012 will apply to the Project, except as FTA determines otherwise in writing. Certifications and Assurances for funding to be awarded under this program in FY 2014 are included in these FTA Certifications and Assurances for FY 2014. Each Applicant must submit Group 01 ("Required Certifications and Assurances for Each Applicant"). Each Applicant seeking more than $100,000 in Federal funding must provide both Group 01, and Group 02, ("Lobbying").

GROUP 18. TRIBAL TRANSIT PROGRAMS.

The Certifications in Group 18 are required for funding under:

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

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

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

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

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. Its Project equipment and facilities will be adequately maintained,
4. Its Project will achieve maximum feasible coordination with transportation service funded by other Federal sources,
5. It will:
   a. Have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically 49 CFR 18.36, or
   b. Inform FTA promptly that its procurement system does not comply with those U.S. DOT regulations,
6. It will comply with Buy America under 49 U.S.C. 5323(j), and
7. It will comply with the Certifications, Assurances, and Agreements in:
   a. Group 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
   b. Group 05.B (Bus Testing),
   c. Group 06 (Demand Responsive Service),
   d. Group 07 (Intelligent Transportation Systems), and
   e. Group 10 (Alcohol and Controlled Substances Testing).

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

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

The Certifications in Group 19 are required for funding under:

19.A. The Low or No Emission Vehicle Deployment Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, and

19.B. The Clean Fuels Grant Program, former 49 U.S.C. 5308, in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply.

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

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

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

19.A. Low or No Emission Vehicle Deployment.

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

Section 5312(d)(5)(C)(i) of title 49 requires the following Certifications for Low or No Emission Vehicle Deployment Program funding appropriated or made available for MAP-21. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify and assure that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. It will ensure that, during non-peak hours, for transportation using or involving a facility or equipment funded for its Project, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
   a. Any senior,

b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability), and cannot use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),

5. When carrying out a procurement under this Program, it will comply with the:
   a. General Provisions of 49 U.S.C. 5323, and
   b. Third Party Contract Provisions of 49 U.S.C. 5325,
6. It has:
   a. Informed or will inform the public of the amounts of its funding available under this Program,
   b. Developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
   c. Published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
   d. Provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
   e. Assured or will assure that the proposed Program of Projects provides for coordination of public transportation services assisted under 49 U.S.C. 5336 with federally funded transportation services supported by other United States Government sources,
   f. Considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
   g. Made or will make the final list of Projects available to the public,
7. It:
   a. Has or will have the amount of funds required for the local share,
   b. Will provide the local share funds from sources approved by FTA, and
   c. Will provide the local share funds when needed,
8. It will comply with:
   a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
   b. The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
9. It has a locally developed process to solicit and consider public comment before:
   a. Raising a fare, or
   b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

19.B. Clean Fuels Grant Program.

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain the Project equipment and facilities adequately,
4. It will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving Project facilities or equipment supported under former 49 U.S.C. 5308:
   a. Elderly individuals,
   b. Individuals with disabilities,
   c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and
   d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under former 49 U.S.C. 5308, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
   a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
   b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
   c. "Buy America" under 49 U.S.C. 5323(j),
   d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
   e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
   f. "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
6. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
7. It:
   a. Has or will have the amount of funds required for the local share,
   b. Will provide the local share funds from sources approved by FTA, and
   c. Will provide the local share funds when needed,

8. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304,
9. It has a locally developed process to solicit and consider public comment before:
   a. Raising a fare, or
   b. Implementing a major reduction of public transportation, and
10. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

GROUP 20. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

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

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

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

1. The following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. 5320 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, on behalf of your Applicant, you certify that:
   a. It will consult with the appropriate Federal land management agency during the planning process, and
   b. The requirements of former 49 U.S.C. 5307, as determined by FTA, will apply to the Parks Program, authorized by former 49 U.S.C. 5320, and
2. FTA has determined certain requirements of former 49 U.S.C. 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore as specified under former 49 U.S.C. 5307(d)(1) except as superseded by MAP-21 cross-cutting requirements that apply, you certify that:
   a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
      (1) Legal capacity,
      (2) Financial capacity, and

(3) Technical capacity,

b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,

c. It will maintain the Project equipment and facilities adequately,

d. When carrying out a procurement under former 49 U.S.C. 5320, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
   (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
   (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
   (3) "Buy America" under 49 U.S.C. 5323(j),
   (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
   (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
   (6) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),

e. It will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,

f. It has complied or will comply with the requirements of former 49 U.S.C. 5307(c). Specifically, it:
   (1) Has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. 5320, and the Projects it proposes to undertake,
   (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, Projects to be financed,
   (3) Has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,
   (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
   (5) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
   (6) Has made or will make the final list of Projects available to the public,

g. It:
   (1) Has or will have the amount of funds required for the local share,
   (2) Will provide the local share funds from sources approved by FTA, and
   (3) Will provide the local share funds when needed,

h. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304, and

i. It has a locally developed process to solicit and consider public comment before:
   (1) Raising a fare, or
   (2) Implementing a major reduction of public transportation.

GROUP 21. STATE SAFETY OVERSIGHT GRANT PROGRAM.

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

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

On behalf of your Applicant, you certify that:

1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
   a. Legal capacity,
   b. Financial capacity, and
   c. Technical capacity,
2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. It will maintain its Project equipment and facilities adequately,
4. When carrying out a procurement for its Project, it will comply with the:
   a. The Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, 49 C.F.R. part 18,
   b. General Provisions of 49 U.S.C. 5323, and
   c. Third Party Contract Requirements of 49 U.S.C. 5325,
5. As required by 49 U.S.C. 5329(e)(6)(C), it:
   a. Has or will have the amount of funds required for the local share,
   b. Will provide the local share funds only from sources approved by FTA, and will not be met by:
      (1) Any Federal funds,
      (2) Any funds received from a public transportation agency, or
      (3) Any revenues earned by a public transportation agency, and
   c. Will provide the local share funds when needed,
6. It meets the applicable requirements of 49 C.F.R. part 659, Rail Fixed Guideway Systems: State Safety Oversight, and
7. It has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. 5329(e) and is adequate to promote the purposes of 49 U.S.C. 5329.

GROUP 22. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

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

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

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

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

GROUP 23. EXPEDITED PROJECT DELIVERY PILOT PROGRAM.

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

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

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

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

GROUP 24. INFRASTRUCTURE FINANCE PROGRAMS.

The Certifications in Group 24 apply to the following programs:

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

24.B. The State Infrastructure Banks (SIB) Program, 23 U.S.C. 610, except as superseded by MAP-21 cross-cutting requirements that apply.

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

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

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

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

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

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

1. To comply with 49 U.S.C. 5307, specifically 49 U.S.C. 5307(d)(1), on its behalf, you certify that:
   a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
      (1) Legal capacity,
      (2) Financial capacity, and
      (3) Technical capacity,
   b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
   c. It will maintain its Project equipment and facilities adequately,
   d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a TIFIA-financed Project, a fare that is not

more than fifty (50) percent of the peak hour fare will be charged to the following individuals:

(1) A senior,

(2) An individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design, or

(3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), and

(4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),

e. When carrying out a TIFIA-funded procurement, it will comply with:

(1) 49 U.S.C. 5323, and

(2) 49 U.S.C. 5325,

f. It has complied with or will comply with 49 U.S.C. 5307(b), because it:

(1) Has made or will make available to the public information on amounts of its TIFIA funding request(s),

(2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,

(3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,

(4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,

(5) Has ensured or will ensure that the proposed Program of Projects provides for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and U.S. DOT under TIFIA with federally funded transportation services supported by other United States Government sources,

(6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and

(7) Has made or will make the final Program of Projects available to the public,

g. It:

(1) Has or will have at least (twenty) 20 percent of the TIFIA net Project costs required for the local share,

(2) Will provide the local share funds from sources approved by FTA, and

(3) Will provide the local share funds when needed,

h. It will comply with:

(1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and

(2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,

i. It has a locally developed process to solicit and consider public comment before:
   (1) Raising a fare, or
   (2) Implementing a major reduction of public transportation, and
j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d),

2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, it agrees that it will not seek reimbursement for interest and other financing costs incurred in connection with its Project that must be in compliance with those requirements unless:
   a. It is eligible to receive Federal funding for those expenses, and
   b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*)
4. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 5321 et seq., and will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Project prior to obligation of funds, and
5. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d), when required.

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

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

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

1. It will comply with the following applicable Federal laws establishing the various SIB programs since 1995:
   a. 23 U.S.C. 610, as amended by MAP-21,
   b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
   c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or
   d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181,
2. It will comply with or follow the Cooperative Agreement establishing the State's SIB program between:
   a. It and FHWA, FRA, and FTA, or
   b. It and FHWA and FTA,
3. It will comply with or follow the Grant Agreement that provides FTA funding for the SIB and is between it and FTA, including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
   a. 23 U.S.C. 610, as amended by MAP-21,

b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note,
d. Federal guidance pertaining to the SIB Program,
e. The Cooperative Agreement establishing the State's SIB Program, or
f. The FTA Grant Agreement,

4. As required by 49 U.S.C. 5323(o), Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, as amended by MAP-21, apply to any Project under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. 610 (or any support from 23 U.S.C. 601 – 609),
5. As required by 49 U.S.C. 5323(o) and 49 U.S.C. 5307(d)(1):
   a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those proposed Project(s):
      (1) Legal capacity,
      (2) Financial capacity, and
      (3) Technical capacity,
   b. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
   c. It will maintain its Project equipment and facilities adequately,
   d. It will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a SIB-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
      (1) A senior,
      (2) An individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design,
      (3) An individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
      (4) An individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
   e. When carrying out a procurement under a SIB-financed Project, it will comply with the:
      (1) General Provisions of 49 U.S.C. 5323, and
      (2) Third Party Contract Provisions of 49 U.S.C. 5325,
   f. It has complied with or will comply with 49 U.S.C. 5307(b), because it:
      (1) Has made or will make available to the public information on amounts of its funding requested under the SIB program,
      (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
      (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

(Signature page alternative to providing Certifications and Assurances in TEAM-Web)

Name of Applicant: City of Englewood, Colorado

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

OR

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

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

have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,

(4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,

(5) Has ensured or will ensure that the proposed Program of Projects provide for coordination of public transportation services funded by FTA under 49 U.S.C. 5336 and the SIB Program with federally funded transportation services supported by other United States Government sources,

(6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and

(7) Has made or will make the final Program of Projects available to the public,

g. It:

(1) Has or will have the amount of funds required for the local share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,

(2) Will provide the local share funds from sources approved by FTA, and

(3) Will provide the local share funds when needed,

h. It will comply with the:

(1) The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and

(2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,

i. It has a locally developed process to solicit and consider public comment before:

(1) Raising a fare, or

(2) Implementing a major reduction of public transportation, and

j. It will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d),

2. As required by 49 U.S.C. chapter 53, it certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with its Project unless:

a. It is eligible to receive Federal funding for those expenses, and

b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require, and

3. It agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d).

Selection and Signature Page(s) follow.

FTA FISCAL YEAR 2014 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2014 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE
(Required of all Applicants for FTA funding and all FTA Grantees with an active Capital or Formula Project)

AFFIRMATION OF APPLICANT

Name of the Applicant: City of Englewood, Colorado

Name and Relationship of the Authorized Representative: Randy P. Penn, Mayor

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all Federal statutes and regulations, and follow applicable Federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2014, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Project for which it seeks now, or may later seek FTA funding during Federal Fiscal Year 2014.

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

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

Signature_____ Date: _____

Name_____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

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

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

Signature_____ Date: _____

Name_____
Attorney for Applicant

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

SCHEDULE C

COPIES OF DBE ENCLOSURES

APPENDIX B- DBE ENCLOSURES

Enclosure 1a- DBE AFFIDAVIT

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

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

12 % - DBE (Disadvantaged Business Enterprise)

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

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

Business Name: Felsburg Holt & Ullevig
Contact Name: Elliot Sulsky
Address: 6300 South Syracuse Way, Suite 600
City, State, ZIP: Centennial, CO 80111
Phone: 303-721-1440 Fax: 303-721-0832

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

Felsburg Holt & Ullevig TO MAKE THIS AFFIDAVIT.

(Name of Business Entity)

7/16/2014 Elliot Sulsky Principal
(Date) (Name) (Title)

(Affiant's Signature)
State of COLORADO:
City and County of CENTENNIAL:
On this 16th day of July 2014, before me, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit, and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal. My Commission Expires: 11/6/2014

(Notary Public) (SEAL)

STACEY ROTH FREITAG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 20024038149
MY COMMISSION EXPIRES NOVEMBER 06, 2014

APPENDIX B – DBE ENCLOSURES

ENCLOSURE 2 – SCHEDULE OF [DBE] PARTICIPATION

NAME OF CONTRACTOR: [•] Felsburg Holt & Ullevig
RTD Contract No. RFP No. RFP-14-014
Total Proposed Cost: US$ 289,876

DBE FIRM NAME	TYPE OF WORK (ELECTRICAL, PAVING, ETC.) AND CONTRACT ITEMS OR PART THEREOF TO BE PERFORMED	PROJECTED START & COMPLETION DATES FOR DBE	AGREED PRICE TO BE PAID TO DBE
ArLand Land Use Economics	Real Estate Feasibility Analysis/Marketing	October 2014	$20,000
Bachman PR	Public Involvement	October 2014	$27,750
Toole Design Group	Bicycle/Pedestrian planning and design	October 2014	$28,806

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

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

(i) materials or supplies obtained from a DBE manufacturer will be counted at 100% toward the DBE Goal; and

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

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

Office of Economic Development
Division of Small Business Opportunity

201 W Colfax Ave, Dept 907
Denver, CO 80202
p: 720.913.1999
f: 720.913.1809
www.denvergov.org/dsbo

Denver International Airport
Airport Office Building, Suite 7810
8500 Pena Blvd
Denver, CO 80249
p: 303.342-2180
f: 303.342.2190
www.flydenver.com

DENVER
THE MILE HIGH CITY

June 6, 2014

Arleen Taniwaki
ArLand, LLC DBA ArLand Land Use Economics
2200 S. Clarkson St.
Denver, CO 80210

Dear Arleen Taniwaki:

The Division of Small Business Opportunity is pleased to inform you that ArLand, LLC DBA ArLand Land Use Economics is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBEs at www.coloradodbe.org.

ArLand, LLC DBA ArLand Land Use Economics is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work codes appearing as part of your firm's listing on the directory as eligible to be counted toward DBE participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-541320: URBAN PLANNING SERVICES
CO UCP NAICS-541613: MARKETING CONSULTING SERVICES
CO UCP NAICS-541614: TRANSPORTATION MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541690: ECONOMIC CONSULTING SERVICES

The anniversary date of your firm's DBE certification is March 11, 2015. You will be notified prior to the anniversary date that eligibility must be re-evaluated. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(i), submittal of this information is required to ensure that there is no interruption of your firm's status as a certified DBE. If any changes occur in the firm's legal structure, ownership, management, control, or work performed, you must notify the division immediately.

Sincerely,

Chris Martinez
Director

CM/je

Lisa Bachman PR Group LLC
Certification #8619

Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.

Work Codes

DENVER-50102: ADVERTISING/PUBLIC RELATIONS/MARKETING/GRAPHICS
DENVER-513: PUBLIC INVOLVEMENT AND HEARINGS

Certification Date: DBE August 11, 2011 – August 10, 2013

This certification expires on the 10th day of August, 2013. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.

Tamela Lee, Director
UCP Partner at City and County of Denver

8/12/2011
Date

Office of Economic Development
Division of Small Business Opportunity

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8500 Pena Blvd
Denver, CO 80249
p: 303.342.2180
f: 303.342.2190
www.flydenver.com

DENVER
THE MILE HIGH CITY

July 1, 2013

Jennifer Toole
Toole Design Group, LLC
8484 Georgia Ave, Suite 800
Silver Spring, MD 20910

Dear Jennifer Toole:

The Division of Small Business Opportunity is pleased to inform you that Toole Design Group, LLC is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBEs at www.coloradodbe.org.

Toole Design Group, LLC is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work codes appearing as part of your firm's listing on the directory as eligible to be counted toward DBE participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-541320: URBAN PLANNING SERVICES
CO UCP NAICS-541330: TRAFFIC ENGINEERING CONSULTING SERVICES
CO UCP NAICS-541611: ADMINISTRATIVE AND GENERAL MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541614: TRANSPORTATION MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541990: SCIENTIFIC AND TECHNICAL SERVICES

The anniversary date of your firm's DBE certification is June 26, 2014. You will be notified prior to the anniversary date that eligibility must be re-evaluated. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(i), submittal of this information is required to ensure that there is no interruption of your firm's status as a certified DBE. If any changes occur in the firm's legal structure, ownership, management, control, or work performed, you must notify the division immediately.

Sincerely,

Chris Martinez
Director

CM/vy

Contract No.
The undersigned [Felsburg Holt & Ullevig] (the ***Contractor***) intends to engage the undersigned **DBE** to perform work in connection with the Project pursuant to a contract (the ***DBE Contract***) between the Contractor and the DBE as [*check one*]:

_____ an individual ___x____ a corporation (LLC)
_____ a partnership _____ a joint venture

The DBE status of the undersigned DBE is confirmed on the attached schedule of DBE participation and represents a company that is certified as of the date on which the DBE Contract is executed.

Item	Projected Commencement Date	Projected Completion Date	Agreed Price to be Paid to DBE
Real Estate Feasibility Analysis and Marketing/Implementation	October 1, 2014	To Be Determined	$20,000

_____% of the Dollar value of the DBE Contract will be sublet and/or awarded to non-DBE contractors and/or non-DBE suppliers. The undersigned Proposer and the undersigned DBE will enter into the DBE Contract for the above work conditioned upon the Proposer's execution of the Contract with RTD.

Felsburg Holt & Ullevig
NAME OF CONTRACTOR

Elliot Sulsky
OWNER/REPRESENTATIVE

6300 South Syracuse Way, Ste 600
ADDRESS

EMAIL ADDRESS

SIGNATURE

Principal 7-17-14
TITLE DATE

ArLand LLC DBA ArLand Land Use Economics
NAME OF DBE FIRM

Arleen Taniwaki
OWNER/REPRESENTATIVE

1807 S. Pearl St., Denver, CO 80210
ADDRESS

EMAIL ADDRESS

SIGNATURE

Principal 7.18.2014
TITLE DATE

Office of Economic Development
Division of Small Business Opportunity

201 W Colfax Ave, Dept 907
Denver, CO 80202
p: 720.913.1999
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f: 303.342.2190
www.flydenver.com

DENVER
THE MILE HIGH CITY

June 6, 2014

Arleen Taniwaki
ArLand, LLC DBA ArLand Land Use Economics
2200 S. Clarkson St.
Denver, CO 80210

Dear Arleen Taniwaki:

The Division of Small Business Opportunity is pleased to inform you that ArLand, LLC DBA ArLand Land Use Economics is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBEs at www.coloradodbe.org.

ArLand, LLC DBA ArLand Land Use Economics is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work codes appearing as part of your firm's listing on the directory as eligible to be counted toward DBE participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-541320: URBAN PLANNING SERVICES
CO UCP NAICS-541613: MARKETING CONSULTING SERVICES
CO UCP NAICS-541614: TRANSPORTATION MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541690: ECONOMIC CONSULTING SERVICES

The anniversary date of your firm's DBE certification is March 11, 2015. You will be notified prior to the anniversary date that eligibility must be re-evaluated. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(i), submittal of this information is required to ensure that there is no interruption of your firm's status as a certified DBE. If any changes occur in the firm's legal structure, ownership, management, control, or work performed, you must notify the division immediately.

Sincerely,

Chris Martinez
Director

CM/je

APPENDIX B, ENCLOSURE 3 – LETTER OF INTENT TO PERFORM AS A DBE SUBCONTRACTOR

Contract No.
The undersigned [Felsburg Holt & Ullevig] (the ***Contractor***) intends to engage the undersigned **DBE** to perform work in connection with the Project pursuant to a contract (the ***DBE Contract***) between the Contractor and the DBE as [*check one*]:

✓ an individual _____ a corporation
_____ a partnership _____ a joint venture

The DBE status of the undersigned DBE is confirmed on the attached schedule of DBE participation and represents a company that is certified as of the date on which the DBE Contract is executed.

Item	Projected Commencement Date	Projected Completion Date	Agreed Price to be Paid to DBE
Agency Coordination and Community Engagement	October 1, 2014	To Be Determined	$27,750

0 % of the Dollar value of the DBE Contract will be sublet and/or awarded to non-DBE contractors and/or non-DBE suppliers. The undersigned Proposer and the undersigned DBE will enter into the DBE Contract for the above work conditioned upon the Proposer's execution of the Contract with RTD.

Felsburg Holt & Ullevig
NAME OF CONTRACTOR

Elliot Sulsky
OWNER/REPRESENTATIVE

6300 South Syracuse Way, Ste 600
ADDRESS

Principal 7-17-14
TITLE DATE

Lisa Bachman PR Group, LLC
NAME OF DBE FIRM

Lisa Bachman
OWNER/REPRESENTATIVE

PO Box 236, Colo. Springs 80901
ADDRESS

EMAIL ADDRESS

SIGNATURE

Principal 7/15/14
TITLE DATE

Lisa Bachman PR Group LLC
Certification #8619

Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.

Work Codes

DENVER-50102: ADVERTISING/PUBLIC RELATIONS/MARKETING/GRAPHICS
DENVER-513: PUBLIC INVOLVEMENT AND HEARINGS

Certification Date: DBE August 11, 2011 – August 10, 2013

This certification expires on the 10th day of August, 2013. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.

Tamela Lee, Director
UCP Partner at City and County of Denver

8/12/2011
Date

APPENDIX B, ENCLOSURE 3 – LETTER OF INTENT TO PERFORM AS A DBE SUBCONTRACTOR

Contract No.
The undersigned [Felsburg Holt & Ullevig] (the ***Contractor***) intends to engage the undersigned **DBE** to perform work in connection with the Project pursuant to a contract (the ***DBE Contract***) between the Contractor and the DBE as [*check one*]:

_____ an individual _____ a corporation
_____ a partnership _____ a joint venture ___x___ a limited liability company

The DBE status of the undersigned DBE is confirmed on the attached schedule of DBE participation and represents a company that is certified as of the date on which the DBE Contract is executed.

Item	Projected Commencement Date	Projected Completion Date	Agreed Price to be Paid to DBE
Alternatives Design (Protected Bikeway)	October 1, 2014	To Be Determined	$28,806

_____% of the Dollar value of the DBE Contract will be sublet and/or awarded to non-DBE contractors and/or non-DBE suppliers. The undersigned Proposer and the undersigned DBE will enter into the DBE Contract for the above work conditioned upon the Proposer's execution of the Contract with RTD.

Felsburg Holt & Ullevig
NAME OF CONTRACTOR

Elliot Sulsky
OWNER/REPRESENTATIVE

6300 South Syracuse Way, Ste 600
ADDRESS

EMAIL ADDRESS

SIGNATURE

Principlal 7-17-14
TITLE DATE

Toole Design Group, LLC
NAME OF DBE FIRM

Jennifer Toole, AICP, ASLA
OWNER/REPRESENTATIVE

1062 Delaware St, Denver, CO 80204
ADDRESS

EMAIL ADDRESS

SIGNATURE

President, 7/16/14
TITLE DATE

Office of Economic Development
Division of Small Business Opportunity

201 W Colfax Ave, Dept 907
Denver, CO 80202
p: 720.913.1999
f: 720.913.1809
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Denver International Airport
Airport Office Building, Suite 7810
8500 Pena Blvd
Denver, CO 80249
p: 303.342-2180
f: 303.342.2190
www.flydenver.com

DENVER
THE MILE HIGH CITY

July 1, 2013

Jennifer Toole
Toole Design Group, LLC
8484 Georgia Ave, Suite 800
Silver Spring, MD 20910

Dear Jennifer Toole:

The Division of Small Business Opportunity is pleased to inform you that Toole Design Group, LLC is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBEs at www.coloradodbe.org.

Toole Design Group, LLC is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work codes appearing as part of your firm's listing on the directory as eligible to be counted toward DBE participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-541320: URBAN PLANNING SERVICES
CO UCP NAICS-541330: TRAFFIC ENGINEERING CONSULTING SERVICES
CO UCP NAICS-541611: ADMINISTRATIVE AND GENERAL MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541614: TRANSPORTATION MANAGEMENT CONSULTING SERVICES
CO UCP NAICS-541990: SCIENTIFIC AND TECHNICAL SERVICES

The anniversary date of your firm's DBE certification is June 26, 2014. You will be notified prior to the anniversary date that eligibility must be re-evaluated. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(i), submittal of this information is required to ensure that there is no interruption of your firm's status as a certified DBE. If any changes occur in the firm's legal structure, ownership, management, control, or work performed, you must notify the division immediately.

Sincerely,

CM/vy

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name:

Firm Address (Office Reporting):

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

RTD DBE _____ Non-DBE x

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

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

U.S.$5 Million to U.S.$10 Million U.S.$10 Million to U.S.$20.41 Million x Above U.S.$20.41 Million_____

Age of the firm: 30 years

Signature: _____

Name: Elliot Sulsky, [illegible]

Title: Principal

Date: 7-17-14

Job Categories	*Total Employees in Establishment*			M = Male											F = Female
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers	18	11	7				1							11	6
Professionals	53	34	19											34	19
Technicians	40	34	6			1								33	6
Sales															
Office & Clerical	10	0	10				2								8
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
TOTAL	121	79	42			1	3							78	39

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name: ArLand LLC DBA Arland Land Use Economics

Firm Address (Office Reporting): 1807 S. Pearl St., Denver, CO 80210

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

RTD DBE x_____ Non-DBE _____

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

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

U.S.$5 Million to U.S.$10 Million_____ U.S.$10 Million to U.S.$20.41 Million_____ Above U.S.$20.41 Million_____

Age of the firm: 22

Signature: _____ _____

Name: Aneen Tahiwani

Title: Manager / Principal

Date: July 10, 2014

Job Categories	*Total Employees in Establishment*			M = Male										F = Female	
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers	1		1								1				
Professionals	2		1												
Technicians															
Sales															
Office & Clerical															
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
TOTAL	3		2								1				

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name: Bachmon pr

Firm Address (Office Reporting): Po Box 236
Colorado Springs CO 80901

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

RTD DBE ___ Non-DBE ✓ City + County of Denver DBE ✓

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

U.S.$0 to U.S.$500,000 ✓ U.S.$500,000 to U.S.$1,000,000 ___ U.S.$1 Million to U.S.$5 Million ___

U.S.$5 Million to U.S.$10 Million ___ U.S.$10 Million to U.S.$20.41 Million ___ Above U.S.$20.41 Million ___

Age of the firm: 5 +

Signature:

Name: Lisa M. Bachman

Title: Principal

Date: 7/14/14

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

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name: Design Workshop, Inc.

Firm Address (Office Reporting): 1390 Lawrence St #200
Denver, CO 80204

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

RTD DBE _____ Non-DBE X

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

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

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

Age of the firm: 35 years

Signature: _____

Name: Britton Palmberg

Title: Project Manager

Date: July 16, 2014

Job Categories	*Total Employees in Establishment*			M = Male										F = Female	
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other (White)	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers	12	9	3											9	3
Professionals	70	37	33				2			5	4			32	27
Technicians															
Sales															
Office & Clerical	6	Ø	6											Ø	6
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
TOTAL															

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name:

Firm Address (Office Reporting):

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

RTD DBE __x__ Non-DBE _____

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

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

U.S.$5 Million to U.S.$10 Million x U.S.$10 Million to U.S.$20.41 Million_____ Above U.S.$20.41 Million_____

Age of the firm: 1

Signature: _____ _____

Name:

Title: President

Date: 7/16/14

Job Categories	*Total Employees in Establishment*			M = Male									F = Female		
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers	11	5	6												
Professionals	41	20	21			1									
Technicians	2	2		2											
Sales															
Office & Clerical	6	1	5		1										
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
TOTAL	60	31	29		1	1									

APPENDIX B, ENCLOSURE 4 – SOLICITATION STATISTICS

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

Firm Name: Walker Parking Consultants/Engineers, Inc.

Firm Address (Office Reporting): 5350 S. Roslyn St., Suite 220
Greenwood Village, Colorado 80111

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

RTD DBE _____ Non-DBE __X__

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

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

U.S.$5 Million to U.S.$10 Million U.S.$10 Million to U.S.$20.41 Million_____ Above U.S.$20.41 Million__X__

Age of the firm: _____

Signature: _____ _____

Name: Robert Stanley, P.E. LEED AP+BC

Title: Managing Principal

Date: 7/17/14

Job Categories	*Total Employees in Establishment*			M = Male										F = Female	
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers	57	53	4			1		1		3					
Professionals	96	80	16			3				11	1			2	
Technicians	59	47	12	1		9	2			6	2				
Sales	6	3	3												
Office & Clerical	26	1	25		3		1								1
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
TOTAL	244	184	60	1	3	13	3	1		20	3			2	1

APPENDIX B, ENCLOSURE 5 – EMPLOYER CERTIFICATION OF WORKFORCE[1]

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

Firm Name: FELSBURG HOLT + ULLEVIG

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

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

This information is provided on the following attached page.
THIS INFORMATION SHOULD REMAIN CONFIDENTIAL.

Signature: _____

Name: ELLIOT SULSKY

Title: PRINCIPAL

Date of Execution: 7-17-14

Please note that this data may be obtained by visual survey or post-employment records. Neither visual surveys nor post-employment records are prohibited by Federal, State or local law. Current utilization as of 7-17-14:

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

APPENDIX B, ENCLOSURE 5 – EMPLOYER CERTIFICATION OF WORKFORCE
(attachment to previous RTD form)

Felsburg Holt & Ullevig
List of shareholders ownership percentage as of 1/1/14

Name:	**Ethnicity:**	**Gender:**
Dean P. Bradley **President** 13.52%	White	Male
Kyle A. Anderson **Executive Vice President** 12.11%	White	Male
Christopher J. Fasching **Secretary/Treasurer** 7.39%	White	Male
Robert G. Refvem **Chairman of the Board** 19.35%	White	Male
George W. Beams **Director** 11.51%	White	Male
Thomas W. Anzia 7.39%	White	Male
Elliot M. Sulsky 7.39%	White	Male
Thor W. Gjelsteen 7.29%	White	Male
D. Holly Buck 4.19%	White	Female
Lyle E. DeVries 4.19%	White	Male
Kurt R. Kellogg 1.42%	White	Male
Matthew B. McFadden 1.42%	White	Male
Jenny A. Young 1.42%	White	Female
Amy Zlotsky 1.42%	White	Female

DESCRIPTION OF JOB CATEGORIES

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

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

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

Sales – Occupations engaging wholly or primarily in selling.

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

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

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

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

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

RACE/ETHNIC IDENTIFICATION

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

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

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

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

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

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

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number:

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

Proposer: Felsburg Holt & Ullevig

Subcontractor – if applicable: N/A

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

Phone: 303-721-1440 Fax: 303-721-0832

Email: _

Website: www.fhueng.com

Currently Sponsored Disadvantaged Business Outreach Activities:
FHU routinely engages DBE/SBE/ESB/WMBE firms as partners on our projects. We solicit participation via the CDOT UDBE and ESB databases and the City and County of Denver DSBO database. FHU also participates in the outreach and business introduction programs provided by ACEC-CO, APWA, and WTS.

How can RTD assist you in your current Disadvantaged business outreach efforts?
Having a comprehensive list of RTD SBE-certified firms or qualified DBE firms when issuing task orders to assist prime consultants to match DBE or SBE firms with tasks, and boost participation on projects.

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

If so, how? _____

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number:

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

Proposer: FHU

Subcontractor – if applicable: ArLand LLC DBA ArLand Land Use Economics

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

Phone: 720.244.7678 Fax: 720.228.2211

Email: ____

Website: www.arlandllc.com

Currently Sponsored Disadvantaged Business Outreach Activities:

NA -- firm is DBE

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

Focused networking events, when possible

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

If so, how? _____

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number: Station Area Master Plan: Englewood Light Rail Corridor Next Steps Study
Contract No. (the ***Contract***). RFP 14-014
Proposer: FHU

Subcontractor – if applicable: Lisa Bachman PR Group LLC

Disadvantaged Business Outreach Contact (if none, list contact for the Contract): Lisa M. Bachman

Phone: 719/480-5005 Fax:
Email:
Website: www.lisabachmanpr.com

Currently Sponsored Disadvantaged Business Outreach Activities:
City + County of Denver Certified DBE, SBE, M/WBE
Colorado Dept. of Transportation ESB
100 % Veteran-owned

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

Would you be interested becoming involved in current and future RTD-sponsored outreach activities and committees: [✓] Yes [ ] No
If so, how? RTD SBE Certification process

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number: Englewood Light Rail Corridor Next steps Study RFP-14-04
Contract No. (the ***Contract***).

Proposer: Design Workshop, Inc.

Subcontractor – if applicable: N/A

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

Phone: 303-623-5186 Fax: 303-623-2260

Email: _____

Website: www.designworkshop.com

Currently Sponsored Disadvantaged Business Outreach Activities:
When we receive an RFP that has a DBE requirement, we reachout to our network of DBE contacts here in Denver and throughout Colorado.

How can RTD assist you in your current Disadvantaged business outreach efforts?
Training, symposiums, and related activities.

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

If so, how?
We would be interested in joining committees that set DBE criteria and related metrics.

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number: Station Area Master Plan: Englewood Light Rail Corridor Next Steps Study

Contract No. (the ***Contract***). RFP-14-014

Proposer: Toole Design Group, LLC

Subcontractor – if applicable:
Toole Design Group, LLC

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

Phone: 301.927.1900 Fax: 301.927.2800

Email: _

Website: www.tooledesign.com

Currently Sponsored Disadvantaged Business Outreach Activities:
n/a

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

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

If so, how? _

APPENDIX B, ENCLOSURE 6 – DISADVANTAGED BUSINESS OUTREACH

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

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

RTD Contract Name and Number: City of Englewood Community Development Contract No. (the ***Contract***). RFP-14-014

Proposer: Felsburg Holt & Ullevig

Subcontractor – if applicable:
Walker Parking Consultants/Engineers, Inc.

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

Phone: _____ Fax: _____

Email: _____

Website: _____

Currently Sponsored Disadvantaged Business Outreach Activities:
N/A

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

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

If so, how? _____

This form is not applicable to FHU, as we have committed to meeting the full DBE % for this contract.

APPENDIX B, ENCLOSURE 7– DBE UNAVAILABILITY CERTIFICATION

I,_____, _____,
Name Title

of _____, certify that [*the Contractor*}, made the following efforts to meet the DBE Goals on Regional Transportation District Contract No. for the Project:
[please attach any additional efforts that do not fit on this form]

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

- Newspaper Advertisement Log: (attach copies of ads)

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

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

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

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

- Solicited the following DBEs

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

- Followed up with initial contacts

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

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

Date	Organization	Phone #

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

Signature:_____

Date: _____

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
September 15, 2014	11 c v	Professional Services Agreement for the Englewood Walk and Wheel Master Plan and Program: OV Consulting
Initiated By:		**Staff Source:**
Community Development		John Voboril, Long Range Planner II

PREVIOUS COUNCIL ACTION

Community Development presented the Kaiser Permanente Walk and Wheel grant opportunity to produce a new master bicycle and pedestrian plan for the City at the September 16, 2013 City Council study session. Council gave Community Development their support to submit a formal application to Kaiser Permanente for $100,000.

RECOMMENDED ACTION

Community Development is requesting Council approve, by motion, a contract for professional services for the Englewood Walk and Wheel Master Plan and Program (a new City wide bicycle and pedestrian plan). Staff recommends awarding the contract to OV Consulting, the firm chosen through a competitive Request for Proposal (RFP) process in the amount of $99,954.

BACKGROUND AND ANALYSIS

Community Development was awarded funding from Kaiser Permanente for a new City-wide master bicycle and pedestrian plan in May of 2014. Community Development released an RFP for the Englewood Walk and Wheel Master Plan and Program on June 19, 2014. A total of three consulting teams submitted proposals for the project. Each proposal was rated by Community Development staff in terms of project methodology, firm and staff profiles, capacity to assume risk, references, and fee schedule. The three consulting teams were interviewed by Community Development staff members.

OV Consulting was the top scoring consulting teams in the RFP review phase. The OV proposal offered the most labor consultant labor hours for the contract budget amount, and the OV personnel, task, and fee schedule most closely met the needs of the City as outlined in the RFP scope. The selection committee's initial findings were confirmed in the interview process. OV Consulting previously worked with the City to implement the bicycle route signage program in 2011-2012, and has superior knowledge of the challenges and opportunities of the existing Englewood bicycle and pedestrian network.

FINANCIAL IMPACT

Community Development has received the full $99,999 in grant funds from Kaiser Permanente. No City matching funds were required for the project.

LIST OF ATTACHMENTS

Professional Services Agreement Englewood Walk and Wheel Master Plan and Program - OV Consulting

PROFESSIONAL SERVICES AGREEMENT

ENGLEWOOD WALK AND WHEEL MASTER PLAN AND PROGRAM

Sponsored by Kaiser Permanente

This Professional Services Agreement (the "Agreement") is made as of this _____ day of _____, 20__, (the "Effective Date") by and between OV Consulting, a Colorado-based Limited Liability Company ("Consultant"), and The City of Englewood, Colorado, a municipal corporation organized under the laws of the State of Colorado ("City").

City desires that Consultant, from time to time, provide certain consulting services, systems integration services, data conversion services, training services, and/or related services as described herein, and Consultant desires to perform such services on behalf of City on the terms and conditions set forth herein.

In consideration of the foregoing and the terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. The terms set forth below shall be defined as follows:

(a) "Intellectual Property Rights" shall mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (1) rights associate with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (2) trademark and trade name rights and similar rights, (3) trade secret rights, (4) patents, designs, algorithms and other industrial property rights, (5) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (6) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

(b) "Work Product" shall mean all patents, patent applications, inventions, designs, mask works, processes, methodologies, copyrights and copyrightable works, trade secrets including confidential information, data, designs, manuals, training materials and documentation, formulas, knowledge of manufacturing processes, methods, prices, financial and accounting data, products and product specifications and all other Intellectual Property Rights created, developed or prepared, documented and/or delivered by Consultant, pursuant to the provision of the Services.

2. Statements of Work. During the term hereof and subject to the terms and conditions contained herein, Consultant agrees to provide, on an as requested basis, the consulting services, systems integration services, data conversion services, training services, and related services (the "Services") as further described in Schedule A (the "Statement of Work") for City, and in such additional Statements of Work as may be executed by each of the parties hereto from time to time pursuant to this Agreement. Each Statement of Work shall specify the scope of work, specifications, basis of compensation and payment schedule, estimated length of time required to complete each Statement of

Work, including the estimated start/finish dates, and other relevant information and shall incorporate all terms and conditions contained in this Agreement

3. Performance of Services.

(a) Performance. Consultant shall perform the Services necessary to complete all projects outlined in a Statement of Work in a timely and professional manner consistent with the specifications, if any, set forth in the Statement of Work, and in accordance with industry standards. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents in completing the projects outlined in a Statement of Work.

(b) Delays. Consultant agrees to notify City promptly of any factor, occurrence, or event coming to its attention that may affect Consultant's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of the projects contemplated by this Agreement or any Statement of Work. Such notice shall be given in the event of any loss or reassignment of key employees, threat of strike, or major equipment failure. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

(c) Discrepancies. If anything necessary for the clear understanding of the Services has been omitted from the Agreement specifications or it appears that various instructions are in conflict, Vendor shall secure written instructions from City's project director before proceeding with the performance of the Services affected by such omissions or discrepancies.

4. Invoices and Payment. Unless otherwise provided in a Statement of Work, City shall pay the amounts agreed to in a Statement of Work within thirty (30) days following the acceptance by City of the work called for in a Statement of Work by City. Acceptance procedures shall be outlined in the Statement of Work. If City disputes all or any portion of an invoice for charges, then City shall pay the undisputed portion of the invoice by the due date and shall provide the following notification with respect to the disputed portion of the invoice. City shall notify Consultant as soon as possible of the specific amount disputed and shall provide reasonable detail as to the basis for the dispute. The parties shall then attempt to resolve the disputed portion of such invoice as soon as possible. Upon resolution of the disputed portion, City shall pay to Consultant the resolved amount.

5. Taxes. City is not subject to taxation. No federal or other taxes (excise, luxury, transportation, sales, etc.) shall be included in quoted prices. City shall not be obligated to pay or reimburse Consultant for any taxes attributable to the sale of any Services which are imposed on or measured by net or gross income, capital, net worth, franchise, privilege, any other taxes, or assessments, nor any of the foregoing imposed on or payable by Consultant. Upon written notification by City and subsequent verification by Consultant, Consultant shall reimburse or credit, as applicable, City in a timely manner, for any and all taxes erroneously paid by City. City shall provide Consultant with, and Consultant shall accept in good faith, resale, direct pay, or other exemption certificates, as applicable.

6. Out of Pocket Expenses. Consultant shall be reimbursed only for expenses which are expressly provided for in a Statement of Work or which have been approved in advance in writing by City, provided Consultant has furnished such documentation for authorized expenses as City may reasonably request.

7. Audits. Consultant shall provide such employees and independent auditors and inspectors as City may designate with reasonable access to all sites from which Services are performed for the purposes of performing audits or inspections of Consultant's operations and compliance with this Agreement. Consultant shall provide such auditors and inspectors any reasonable assistance that they may require. Such audits shall be conducted in such a way so that the Services or services to any other customer of Consultant are not impacted adversely.

8. Term and Termination. The term of this Agreement shall commence on the Effective Date and shall continue unless this Agreement is terminated as provided in this Section 8.

(a) Convenience. City may, without cause and without penalty, terminate the provision of Services under any or all Statements of Work upon thirty (30) days prior written notice. Upon such termination, City shall, upon receipt of an invoice from Consultant, pay Consultant for Services actually rendered prior to the effective date of such termination. Charges will be based on time expended for all incomplete tasks as listed in the applicable Statement of Work, and all completed tasks will be charged as indicated in the applicable Statement of Work.

(b) No Outstanding Statements of Work. Either party may terminate this Agreement by providing the other party with at least thirty (30) days prior written notice of termination if there are no outstanding Statements of Work.

(c) Material Breach. If either party materially defaults in the performance of any term of a Statement of Work or this Agreement with respect to a specific Statement of Work (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting party may terminate this Agreement or any or all outstanding Statements of Work by providing ten (10) days prior written notice of termination to the defaulting party.

(d) Bankruptcy or Insolvency. Either party may terminate this Agreement effective upon written notice stating its intention to terminate in the event the other party: (1) makes a general assignment of all or substantially all of its assets for the benefit of its creditors; (2) applies for, consents to, or acquiesces in the appointment of a receiver, trustee, custodian, or liquidator for its business or all or substantially all of its assets; (3) files, or consents to or acquiesces in, a petition seeking relief or reorganization under any bankruptcy or insolvency laws; or (4) files a petition seeking relief or reorganization under any bankruptcy or insolvency laws is filed against that other party and is not dismissed within sixty (60) days after it was filed.

(e) TABOR. The parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement to the contrary, all payment obligations of City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of City's current fiscal period ending upon the next succeeding December 31. Financial obligations of City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated.

(f) Return of Property. Upon termination of this Agreement, both parties agree to return to the other all property (including any Confidential Information, as defined in Section 11) of the other party that it may have in its possession or control.

9. City Obligations. City will provide timely access to City personnel, systems and information required for Consultant to perform its obligations hereunder. City shall provide to Consultant's employees performing its obligations hereunder at City's premises, without charge, a reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, secretarial and other necessary equipment, supplies, and services. With respect to all third party hardware or software operated by or on behalf of City, City shall, at no expense to Consultant, obtain all consents, licenses and sublicenses necessary

for Consultant to perform under the Statements of Work and shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

10. Staff. Consultant is an independent consultant and neither Consultant nor Consultant's staff is, or shall be deemed to be employed by City. City is hereby contracting with Consultant for the Services described in a Statement of Work and Consultant reserves the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by Consultant or Consultant's staff, and City shall not be required to hire, supervise or pay any assistants to help Consultant perform the Services under this Agreement. Except to the extent that Consultant's work must be performed on or with City's computers or City's existing software, all materials used in providing the Services shall be provided by Consultant.

11. Confidential Information.

(a) Obligations. Each party hereto may receive from the other party information which relates to the other party's business, research, development, trade secrets or business affairs ("Confidential Information"). Subject to the provisions and exceptions set forth in the Colorado Open Records Act, CRS Section 24-72-101 et. seq., each party shall protect all Confidential Information of the other party with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Without limiting the generality of the foregoing, each party hereto agrees not to disclose or permit any other person or entity access to the other party's Confidential Information except such disclosure or access shall be permitted to an employee, agent, representative or independent consultant of such party requiring access to the same in order to perform his or her employment or services. Each party shall insure that their employees, agents, representatives, and independent consultants are advised of the confidential nature of the Confidential Information and are precluded from taking any action prohibited under this Section 11. Further, each party agrees not to alter or remove any identification, copyright or other proprietary rights notice which indicates the ownership of any part of such Confidential Information by the other party. A party hereto shall undertake to immediately notify the other party in writing of all circumstances surrounding any possession, use or knowledge of Confidential Information at any location or by any person or entity other than those authorized by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall restrict either party with respect to information or data identical or similar to that contained in the Confidential Information of the other party but which (1) that party rightfully possessed before it received such information from the other as evidenced by written documentation; (2) subsequently becomes publicly available through no fault of that party; (3) is subsequently furnished rightfully to that party by a third party without restrictions on use or disclosure; or (4) is required to be disclosed by law, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure.

(b) Know-How. For the avoidance of doubt neither City nor Consultant shall be prevented from making use of know-how and principles learned or experience gained of a non-proprietary and non-confidential nature.

(c) Remedies. Each of the parties hereto agree that if any of them, their officers, employees or anyone obtaining access to the Confidential Information of the other party by, through or under them, breaches any provision of this Section 11, the non-breaching party shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations and benefits which the breaching party, its officers or employees directly or indirectly realize or may realize as a result of or growing out of, or in connection with any such breach. In addition to, and not in limitation of the foregoing, in the event of any breach of this Section 11, the parties agree that the non-breaching party will suffer irreparable harm and that the total

amount of monetary damages for any such injury to the non-breaching party arising from a violation of this Section 11 would be impossible to calculate and would therefore be an inadequate remedy at law. Accordingly, the parties agree that the non-breaching party shall be entitled to temporary and permanent injunctive relief against the breaching party, its officers or employees and such other rights and remedies to which the non-breaching party may be entitled to at law, in equity or under this Agreement for any violation of this Section 11. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.

12. Project Managers. Each party shall designate one of its employees to be its Project Manager under each Statement of Work, who shall act for that party on all matters under the Statement of Work. Each party shall notify the other in writing of any replacement of a Project Manager. The Project Managers for each Statement of Work shall meet as often as either one requests to review the status of the Statement of Work.

13. Warranties.

(a) Authority. Consultant represents and warrants that: (1) Consultant has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (2) the execution of this Agreement by Consultant, and the performance by Consultant of its obligations and duties hereunder, do not and will not violate any agreement to which Consultant is a party or by which it is otherwise bound under any applicable law, rule or regulation; (3) when executed and delivered by Consultant, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (4) Consultant acknowledges that City makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement

(b) Service Warranty. Consultant warrants that its employees and consultants shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

(c) Personnel. Unless a specific number of employees is set forth in the Statement of Work, Consultant warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement or as set forth in the Statement of Work.. During the course of performance of Services, City may, for any or no reason, request replacement of an employee or a proposed employee. In such event, Consultant shall, within five (5) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. Consultant shall require employees providing Services at a City location to comply with applicable City security and safety regulations and policies.

(d) Compensation and Benefits. Consultant shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Consultant or to any employee for Consultant's failure to perform its compensation, benefit, or tax obligations. Consultant shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

14. Indemnification.

(a) Consultant Indemnification. Consultant shall indemnify, defend and hold harmless City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing (the "City Indemnitees") from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and

disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature, suffered or incurred by a City Indemnitee directly or indirectly arising from or related to: (1) any negligent or intentional act or omission by Consultant or its representatives in the performance of Consultant's obligations under this Agreement, or (2) any material breach in a representation, warranty, covenant or obligation of Consultant contained in this Agreement.

(b) Infringement. Consultant will indemnify, defend, and hold City harmless from all Indemnifiable Losses arising from any third party claims that any Work Product or methodology supplied by Consultant infringes or misappropriates any Intellectual Property rights of any third party; provided, however, that the foregoing indemnification obligation shall not apply to any alleged infringement or misappropriation based on: (1) use of the Work Product in combination with products or services not provided by Consultant to the extent that such infringement or misappropriation would have been avoided if such other products or services had not been used; (2) any modification or enhancement to the Work Product made by City or anyone other than Consultant or its sub-consultants; or (3) use of the Work Product other than as permitted under this Agreement.

(c) Indemnification Procedures. Notwith-standing anything else contained in this Agreement, no obligation to indemnify which is set forth in this Section 14 shall apply unless the party claiming indemnification notifies the other party as soon as practicable to avoid any prejudice in the claim, suit or proceeding of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge and gives the other party the opportunity to control the response thereto and the defense thereof; provided, however, that the party claiming indemnification shall have the right to participate in any legal proceedings to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at such party's cost and expense; provided further, however, that no settlement or compromise of an asserted third-party claim other than the payment/money may be made without the prior written consent of the party claiming indemnification.

(d) Immunity. City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to City, its officers, or its employees.

15. Insurance.

(a) Requirements. Consultant agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance during the term of this Agreement:

(1) The Consultant shall comply with the Workers' Compensation Act of Colorado and shall provide compensation insurance to protect the City from and against any and all Workers' Compensation claims arising from performance of the work under this contract. Workers' Compensation insurance must cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, as well as the Employers' Liability within the minimum statutory limits.

(2) Commercial General Liability Insurance and auto liability insurance (including contractual liability insurance) providing coverage for bodily injury and property damage with a combined single limit of not less than two million dollars ($2,000,000) per occurrence.

(3) Professional Liability/Errors and Omissions Insurance covering acts, errors and omissions arising out of Consultant's operations or Services in an amount not less than one million dollars ($1,000,000) per occurrence.

(b) Approved Companies. All such insurance shall be procured with such

insurance companies of good standing, permitted to do business in the country, state or territory where the Services are being performed.

(c) Certificates. Consultant shall provide City with certificates of insurance evidencing compliance with this Section 15 (including evidence of renewal of insurance) signed by authorized representatives of the respective carriers for each year that this Agreement is in effect. Certificates of insurance will list the City of Englewood as an additional insured. Each certificate of insurance shall provide that the issuing company shall not cancel, reduce, or otherwise materially change the insurance afforded under the above policies unless thirty (30) days' notice of such cancellation, reduction or material change has been provided to City.

16. Rights in Work Product.

(a) Generally. Except as specifically agreed to the contrary in any Statement of Work, all Intellectual Property Rights in and to the Work Product produced or provided by Consultant under any Statement of Work shall remain the property of Consultant. With respect to the Work Product, Consultant unconditionally and irrevocably grants to City during the term of such Intellectual Property Rights, a non-exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such Intellectual property Rights.

(b) Know-How. Notwithstanding anything to the contrary herein, each party and its respective personnel and consultants shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other party.

17. Relationship of Parties. Consultant is acting only as an independent consultant and does not undertake, by this Agreement, any Statement of Work or otherwise, to perform any obligation of City, whether regulatory or contractual, or to assume any responsibility for City's business or operations. Neither party shall act or represent itself, directly or by implication, as an agent of the other, except as expressly authorized in a Statement of Work.

18. Complete Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein.

19. Applicable Law. Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in the applicable Statement of Work. This Agreement shall be construed in accordance with the laws of the State of Colorado. Any action or proceeding brought to interpret or enforce the provisions of this Agreement shall be brought before the state or federal court situated in Arapahoe County, Colorado and each party hereto consents to jurisdiction and venue before such courts.

20. Scope of Agreement. If the scope of any provisions of this Agreement is too broad in any respect whatsoever to permit enforcement to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent to and agree that such scope may be judicially modified accordingly and that the whole of such provision of this Agreement shall not thereby fail, but that the scope of such provision shall be curtailed only to the extent necessary to conform to law.

21. Additional Work. After receipt of a Statement of Work, City, with Consultant's consent, may request Consultant to undertake additional work with respect to such Statement of Work. In such event, City and Consultant shall execute an addendum to the Statement of Work specifying such additional work and

the compensation to be paid to Consultant for such additional work.

22. Sub-consultants. Consultant may not subcontract any of the Services to be provided hereunder without the prior written consent of City. In the event of any permitted subcontracting, the agreement with such third party shall provide that, with respect to the subcontracted work, such sub-consultant shall be subject to all of the obligations of Consultant specified in this Agreement.

23. Notices. Any notice provided pursuant to this Agreement shall be in writing to the parties at the addresses set forth below and shall be deemed given (1) if by hand delivery, upon receipt thereof, (2) three (3) days after deposit in the United States mails, postage prepaid, certified mail, return receipt requested or (3) one (1) day after deposit with a nationally-recognized overnight courier, specifying overnight priority delivery. Either party may change its address for purposes of this Agreement at any time by giving written notice of such change to the other party hereto.

24. Assignment. This Agreement may not be assigned by Consultant without the prior written consent of City. Except for the prohibition of an assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

25. Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the parties hereto and shall not confer any rights upon any person or entity not a party to this Agreement.

26. Headings. The section headings in this Agreement are solely for convenience and shall not be considered in its interpretation. The recitals set forth on the first page of this Agreement are incorporated into the body of this Agreement. The exhibits referred to throughout this Agreement and any Statement of Work prepared in conformance with this Agreement are incorporated into this Agreement.

27. Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not effect in any way the full right to require such performance at any subsequent time; nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

28. Force Majeure. If performance by Consultant of any service or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communications failures, earthquakes, war, revolution, civil commotion, acts of public enemies, blockade, embargo or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any governmental or judicial authority or representative of any such government, or any other act whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of Consultant, then Consultant shall be excused from such performance to the extent of such prevention, restriction, delay or interference. If the period of such delay exceeds thirty (30) days, City may, without liability, terminate the affected Statement of Work(s) upon written notice to Consultant.

29. Time of Performance. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

30. Permits. Consultant shall at its own expense secure any and all licenses, permits or certificates that may be required by any federal, state or local statute, ordinance or regulation for the performance of the Services under the Agreement. Consultant shall also comply with the provisions of all Applicable Laws in performing the Services under the Agreement. At its own expense and at no cost to City, Consultant shall make any change, alteration or modification that may be necessary to comply with any Applicable Laws that Consultant failed to comply with at the time of performance of the Services.

31. Media Releases. Except for any announcement intended solely for internal distribution by Consultant or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Consultant, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Consultant or its employees or agents relating to this Agreement or its subject matter, or including the name, trade mark, or symbol of City, shall be coordinated with and approved in writing by City prior to the release thereof. Consultant shall not represent directly or indirectly that any Services provided by Consultant to City has been approved or endorsed by City or include the name, trade mark, or symbol of City on a list of Consultant's customers without City's express written consent.

32. Nonexclusive Market and Purchase Rights. It is expressly understood and agreed that this Agreement does not grant to Consultant an exclusive right to provide to City any or all of the Services and shall not prevent City from acquiring from other suppliers services similar to the Services. Consultant agrees that acquisitions by City pursuant to this Agreement shall neither restrict the right of City to cease acquiring nor require City to continue any level of such acquisitions. Estimates or forecasts furnished by City to Consultant prior to or during the term of this Agreement shall not constitute commitments.

33. Survival. The provisions of Sections 5, 8(g), 10, 11, 13, 14, 16, 17, 19, 23, 25 and 31 shall survive any expiration or termination for any reason of this Agreement.

34. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:

(a) Employees, Consultants and Sub-consultants: Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Consultant shall not contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) Verification: Consultant will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services. Consultant is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

(c) Duty to Terminate a Subcontract: If Consultant obtains actual knowledge that a sub-consultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall;

(1) notify the sub-consultant and the City within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the sub-consultant if, within three days of receiving notice required pursuant to this paragraph the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

(d) Duty to Comply with State Investigation: Consultant shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5)

(e) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Consultant's breach of any section of this paragraph or provisions required pursuant to CRS 8-17.5-102. Consultant shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph 34.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their authorized officers as of the day and year first above written. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CITY OF ENGLEWOOD, COLORADO

By: _____
(Signature)

Randy P. Penn
(Print Name)

Title: Mayor

Date: _____

ATTEST:

_____
City Clerk - Loucrishia A. Ellis

OV Consulting
(Consultant Name)

147 S. Lookout Mountain Rd
Address Golden, CO 80401

_____
City, State Zip Code

By: ____

Beth Vogelsang
(Print Name)

Title: Principal

Date: September 3, 2014

SCHEDULE A

STATEMENT OF WORK AND FEE SCHEDULE

Scope of Work- OV Consulting for Walk and Wheel Bicycle Master Plan (as of 8/29/14)

Task 1: Kick-off Meeting with Kaiser Permanente Technical Assistance Team

Timeframe: Mid-September within one week of notice to proceed

Description: In this task we will facilitate a kick-off meeting with the KP technical assistance team and the City staff within one week of notice to proceed. This kick-off meeting will be a collaborative opportunity to review the work plan, timeline, and final deliverables.

Deliverable: Final scope, schedule, and budget

Task 2: Document State of Walking and Wheeling

Timeframe: September to end of November 2014

Description: In this task we will collaborate with the KP technical assistance team and the City at two meetings to assess the existing conditions, policies, and political support for walking and wheeling. We will work with City staff to produce a State of Walking and Wheeling in Englewood executive summary and presentation that will be given at the transportation board and at a city council study session. The purpose of the report and presentation will be to describe the current conditions, policies, and political support of the Englewood walking and wheeling network.

As part of this task we will complete the following:

- Inventory the City's existing wheeling infrastructure relying on GIS information from the City as a base. We will also develop a comprehensive photo inventory of existing bike parking at major public destinations.

- We will use two tools to estimate existing and future levels of walking and wheeling in Englewood: Aggregate Demand Model and Normalized American Community Survey ACS data analysis. The Alta-developed Aggregate Demand Model determines the number of walking or bicycling trips that occur in a day from commuters, non-commuters, and non-commute trips taken by commuters while the Normalized ACS data analysis focuses on commuter volumes. Using these two methodologies, we will utilize census data and

national studies to extrapolate the number of bicycling or walking trips taken by commuters as well as by populations that traditionally have a higher bicycle/walking mode split than work commuters (such as elementary school and college students).

- We will classify Englewood's roadway network into four levels of traffic stress based on roadway and intersection characteristics that characterize the "ease of use" of the roadway network for different segments of the population. We will complement this evaluation with an analysis of demand for bicycle travel across the city, and overlay supply (level of traffic stress) with demand to identify priority improvement areas.

- The team will conduct a GIS-based Level of Traffic Stress (LTS) analysis of streets in Englewood to identify low stress bicycle routes. LTS is an objective, data-driven roadway classification system based on analysis conducted by the Mineta Transportation Institute that rates streets in terms of the level of stress bicyclists feel while riding on that street and results in the categorization of streets into four stress tolerance types:

  - LTS 1 – Most children are comfortable
  - LTS 2 – Most of the adult population are comfortable
  - LTS 3 – Confident cyclists are comfortable
  - LTS 4 – Only the strongest and most experienced cyclists are capable, but not necessarily comfortable

  The intent of the analysis is to analyze connectivity of the existing bicycling network and identify improvements needed to create a fine-grained bicycle circulation network that serves users of all ages and abilities, connecting places where people live, work, play, and learn. The product of this analysis shows graphically how well connected the different types of destinations, such as schools, employment centers, and retail centers are, and reveals areas where low-stress routes are needed.

- We will document walking and wheeling activity at specific locations. Using video cameras and manual tabulation, we will develop tabulated counts for various walking and wheeling modes. Ten locations will be identified, filmed, and counted for an 8-hour period (details to be finalized with staff). We will also make assessments on the current composition of

the walking and wheeling population based on the videos.

- We will evaluate how each of the following plans has implemented new walking and wheeling facilities and what user groups are using them to move around Englewood:
    - Roadmap Englewood: The 2003 Englewood Comprehensive Plan
    - Englewood South Broadway Plan
    - 2004 Englewood Master Bicycle Plan
    - Englewood Downtown and Medical District Small Area Plan
    - Ready, Set, Action! An Urban Design Action Plan for the Englewood Downtown and Medical Districts
    - Englewood Parks and Recreation Master Plan
    - Englewood South Platte River Open Space Plan
    - South Platte River Working Group South Platte River Corridor Vision
    - Englewood Complete Streets Toolbox
    - Englewood Light Rail Corridor Plan

Deliverable: State of Walking and Wheeling Plan Executive Summary and Presentation

Task 3 : Community Engagement Plan and Outreach

Timeframe: October to project conclusion

Description:
We understand that the first task will be to meet with the Project Manager, City Staff, and the KP Technical Assistance Team to determine the overall outreach strategy and methods of the Public Involvement Plan. A common public involvement plan is being developed by FHU with input from OV. We propose a methodology that includes interactive outreach on various levels:

Project Management Team – An internal team consisting of city staff, the KP Technical Assistance Team, and the consultant team will convene on a regular basis throughout the project, beginning with the Project Kick-off Meeting upon notice to proceed. It is anticipated that this team will meet monthly in coordination with the other two projects that are happening concurrently.

Project Steering Committee – A coordinated steering committee will be formed that includes all three projects and will meet regularly during the project.

Focus Groups – Focus group input will be conducted during the technical planning process. Input will be gathered through focus groups centered on the issues and concerns of the project elements.

Consultations with Agencies having an Interest in the Study Area- We will consult with Denver, Sheridan, Littleton, Cherry Hills Village, Greenwood Village, and RTD as well as any other agencies that are identified as having an interest in the study area.

Public Outreach – We propose a public outreach strategy that is tied to web-based communication and updates, "go-to" public meetings or public happenings and potential collaborative engagement with the concurrent Englewood planning projects.

Web-based Communication

- Contact Database: We will provide information to a common database hosted by FHU.
- Project Website/Social Media: We will help to implement a commonly branded wbsite for all three projects and manage content for the Walk and Wheel project. The website will include a questionnaire/survey. We will provide information to the City for Facebook updates and Twitter feeds.

Public Meetings

- Public "Go To" Meetings:
  OV will participate in up to three public meetings and be the lead consultant for one of the three meetings in terms of arranging meeting logistics and locations and coordinating with the City and the other projects.

Deliverables: participation in website development and project web page content management, participation in three Public meetings, lead consultant for the arranging logistical elements for one of the three public meetings.

Task 4 : Economic Analysis of Walking and Wheeling

Timeframe: November to end of January 2015

Description: The information generated by this analysis will be used to understand the economics of investing in walking and wheeling infrastructure on roadways in Englewood. The purpose of this task is to calibrate the potential economic benefits of new walking and wheeling infrastructure to the conditions that exist in Englewood. The total economic impact will be estimated, in dollars and jobs, by considering the following:

- Alta will provide evaluation of the city's current maintenance budget allocation to determine whether allocated funding is sufficient to maintain in-place and proposed walk and wheel infrastructure. The team will compare the maintenance budgets of up to three peer cities (pending available data).

- Providing qualitative and quantitative data explaining the economic benefits of bicycle policy and infrastructure is a critical piece in gaining buy-in within the public, community organization, city departments, and potential funding sources for projects. Alta has done considerable research into the economic impacts of bicycle and pedestrian facilities in communities throughout the country. Building on the results of the bicycle and pedestrian counts, the Alta team will complete a demand analysis of bicyclists and pedestrians in Englewood. This will include specific projections on existing and future bicycle and pedestrian commuter volumes for use in air quality and Federal funding applications. This methodology has been accepted nationally and is the only model available today that is based on actual empirical count and survey data from over 200 communities, and field tested for accuracy. Based on the results of the demand analysis, U.S. Census figures, and adjustment factors for the study area, a long-term estimate of bicycle and pedestrian mode split can be made and translated into reduced vehicle trips, saved parking spaces, and reduced air pollution. The Alta team will prepare a summary of economic benefits of the bike and pedestrian systems as calculated through the vehicle miles travelled reduction metric described above.

- Alta will review existing and potential funding sources for walk and wheel projects to determine applicability in Englewood. In addition, Alta will review walk and wheel funding used by up to three peer cities (pending available data) and determine whether they can potentially be utilized by Englewood.

Deliverable: Economic Benefit Summary Presentation and Technical Appendix

Task 5 : Walk and Wheel Network Recommendations

Timeframe: December 2014 to end of April 2015

Description: This task will identify walking and wheeling facility and program improvements. A focus of this effort will be identifying a walking and wheeling network to encourage people of all ages and abilities. This task includes a review and update of existing design guidelines with recommended facility typologies, focus on ensuring connectivity between facilities and other travel modes, and ensure adequate end-of-trip facilities. We will collaborate with KP technical assistance team and the City at two meetings to review the recommended network, facility improvements, priority areas, and planning level costs estimates. This task also includes the estimated-new maintenance costs associated with the recommended network and the estimated costs per resident associated with those improvements. We will give a presentation at a transportation advisory board meeting and a city council study session.

Deliverable: GIS mapping, new maintenance costs, summary presentation and Draft Walk and Wheel Action Plan

Subtask 5a : Early Action Opportunity Screening

Timeframe: Mid February to end of March 2015

Description: This task focuses on identifying high probability early implementation projects and screening them for sustainability, cost, system synergies, likely finding opportunities, increased number of users, and ease of implementation to arrive at a top priority project to move forward into 30% design. We will develop and run a screening process based on data developed earlier in the project as well as community engagement and input that results in a top priority project to carry forward into design.

Deliverable: Top Priority Project Identification

Task 6 : 30% Conceptual Design for Top Priority Project

Timeframe: May to end of June 2015

Description: We develop 30% preliminary engineering level designs for the top priority project that is recommended for funding and construction. These plans will support grant funding applications.

Deliverable: 30% design plan set

Task 7 : White Paper Advocacy and Incentive Program

Timeframe: May and July 2015

Description: We will investigate models from around the country for a self-sustaining walk and wheel advocacy and incentive program designed to promote walking and wheeling on a permanent basis within Englewood. Program activities investigated and described will include social marketing campaigns, safety trainings and classes, outreach events to specific targeted populations, worksite focused challenges or events, the development or refining of community way-finding, etc. The consultant will present the results to city staff and the transportation advisory board to identify next steps actions.

Deliverable: White Paper on Advocacy and Incentive Program

Walk and Wheel Project Timeline
OV Consulting
Coordinated with Next Steps and Comp Plan Update Projects
8/29/14

Project Task	2014				2015							
	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Joint Steering Committee/PMT Meetings	●	●	●	●	●	●	●	●	●	●	●	●
Joint Public Meeting/ Community Event Participation/ Travelling Townhall			☆			☆ ■			☆ ■			
Document State of Walking and Wheeling												
Economic Analysis of Walking and Wheeling												
Walk and Wheel Network Recommendations												
Top Priority Project 30% Conceptual Design												
White Paper Advocacy and Incentive Program												
Draft Plan										Draft		Final

Joint Steering Committee/Project Management Team Meetings ●
Joint Public Meeting ☆
Joint Community Event Participation/Travelling Townhall ■
*Meeting dates are tentative. Actual event date to be determined.

City of Englewood Walk and Wheel Master Plan and Program
Proposed Fee Schedule
8/29/14

	Staff Hours								Total Task Hours	Total Task Fee
Task/Hourly Rate	C. Vogelsang Principal OV $145	B. Vogelsang Principal OV $145	Admin/ Technician OV $45	A. Zimmerman Engineer Alta $110	D. Abe Planner Alta $83	J. Mehlem Associate Alta $115	J. Gilpin Principal Alta $165	K. Voros Planner Alta $100		
Task 1: Kick Off Meeting with Kaiser Permanente Technical Team	4	2		4		2			12	$1,540
Task 2: Document State of Walking and Wheeling	24	12	110	36	30		4	76	292	$24,880
Task 3: Community Engagement Plan and Outreach	32	80	32	20					164	$19,880
Task 4: Economic Analysis of Walking and Wheeling	4			14	60		5		83	$7,925
Task 5: Walk and Wheel Network Recommendations	80	40	3	58	8	16	8		213	$27,739
Tsk 6: 30% Design for Top Priority Project	60			36		4			100	$13,120
Task 7: White Paper Advocacy and Incentive Program	8	20	8	2		2			40	$4,870
Staff Hours	212	154	153	170	98	24	17	76	904	
Staff Fee	$30,740	$22,330	$6,885	$18,700	$8,134	$2,760	$2,805	$7,600		**$99,954**