

**TECHNICAL SERVICES AGREEMENT**

**between**

**THE REGIONAL TRANSPORTATION AUTHORITY**

**and**

**THE COUNTY OF LAKE**

**Contract No.: NF-2008-02**

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This Technical Services Agreement (this "Agreement") is made by and between the Regional Transportation Authority, a municipal corporation and body politic formed under the laws of Illinois (the "RTA"), and the County of Lake, a municipal corporation and body politic formed under the laws of the State of Illinois (the "Recipient" or the "Grantee," which term shall include its successors and assigns) as of the later date of execution by the RTA or the Grantee.

WHEREAS, the Recipient wishes to undertake one or more public transportation projects;  
and

WHEREAS, the Recipient has made application to the RTA for financial assistance or financial and technical assistance for the project(s) in accordance with the procedures established by the RTA; and

WHEREAS, the Recipient's application has been reviewed and approved by the RTA;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, this Agreement is made to provide financial assistance or financial and technical assistance to the Recipient in the form of a technical services agreement (hereinafter referred to as the "Agreement"), to set forth the terms and conditions upon which the Agreement will be made, and to set forth the Agreement of the parties as to the manner in which the project(s) will be undertaken, completed, and used.

#### **ARTICLE I: DEFINITIONS**

1.1 "Allowable Cost" means an expense with respect to the Project(s) which meets the requirements of Article IX of this Agreement.

1.2 "Application" means the application submitted by the Recipient with respect to the Project(s). In the event of a conflict between the Application and the attached Exhibit A, Scope of Services, Exhibit A shall govern.

1.3 "Agreement Budget" means those funds paid to or on behalf of the Recipient by the RTA under the provisions of this Agreement.

1.4 "Local Share" means that portion of the Net Project Cost of each Project provided by the Recipient pursuant to this Agreement.

1.5 "Net Project Cost" means the sum of the allowable costs incurred in performing the work on each Project, including work done by the Recipient.

1.6 "Project(s)" means the scope of specific activities for which the funds provided in this Agreement are to be expended, as set forth in Exhibit A, Scope of Services and in the plans, specifications, and schedules set forth in the Application.

1.7 "Project Budget" means the anticipated Net Project Cost for each Project as shown in Exhibit B, Project Budget, as may be amended from time to time by the Recipient with RTA approval and in a format approved by the RTA.

1.8 "Project Facilities" means any facilities, equipment, or real property purchased, acquired, constructed, improved, renovated, or refurbished as part of each Project through the application of the RTA's Agreement funds.

1.9 "Service Life" shall mean, with respect to each Project Facility, the period set forth with respect to such Project Facility on Exhibit B, if applicable.

## **ARTICLE II: THE RECIPIENT'S AUTHORITY AND COMMITMENT**

2.1 The Recipient represents and warrants that it has the legal authority and the financial, technical, and managerial capacity to apply for, plan, manage, and complete the Project(s) for which funding is being provided under this Agreement.

2.2 The Recipient acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the United States or State of Illinois in connection with this Project, they reserve the right to impose on the Recipient the penalties of 18 USC 1001, 49 USC 5307, 31 USC 3801, and 49 CFR 31, as they may deem appropriate. Recipient agrees to include this clause in all state and federally-assisted contracts and subcontracts.

2.3 The Recipient agrees to undertake and complete the scope of each Project as set out in Exhibit A, Scope of Services, and in accordance with the Project Budget as set out in Exhibit B, Project Budget, and to provide for the use of Project Facilities as described in Exhibit A and the Application, in accordance with this Agreement and all applicable laws.

## **ARTICLE III: TERM OF AGREEMENT**

3.1 The term of this Agreement shall be from execution to December 31, 2011.

## **ARTICLE IV: TECHNICAL SERVICES AGREEMENT**

### **4.1 RTA Budget Commitment.**

(a) Subject to the annual appropriation of funds by the RTA, the RTA hereby commits to provide the funds pursuant to paragraph 4.1(b) and as listed in Exhibit B, Project Budget, for the Project(s) in Exhibit A, Scope of Services.

(b) The RTA will provide 50.00% of the aggregate actual cost of all Projects as set forth on Exhibit B, or \$400,000.00, whichever is less. The RTA shall have no liability regarding any Project funded by this Agreement in excess of the funds actually appropriated for the Project.

### **4.2 Recipient Commitment to Complete Project(s) or Seek Amendment.**

Subject to the RTA's appropriation of the funds described in paragraph 4.1, the Recipient agrees to complete the scope of all the Projects, and to provide funding up to the amount of Local Share of the Project Budget, or to seek an amendment in accordance with this subparagraph. The Recipient shall request an amendment to the Agreement in order to (1) add or delete a Project, (2) change the scope of any Project, or (3) change the Agreement amount.

#### 4.3 Conformity with Project Budget.

(a) The Recipient shall carry out each Project and shall incur obligations against and disburse Project funds only in conformance with the latest approved Project Budget attached hereto as Exhibit B. A proposed revised Project Budget shall accompany any request to amend this Agreement.

(b) The Recipient must seek the prior approval of the RTA to revise the Project Budget(s) to increase or decrease the estimated Net Project Cost. In making this request the Recipient must demonstrate the following:

- (1) A justifiable rationale for the revision in a particular Project;
- (2) The revised budget for the Project covers the full scope of the Project funded under this Agreement, i.e., the revised budget of the Project is intended to be adequate for the completion of the Project;
- (3) There are sufficient unspent funds in the Agreement contingency, should one be part of this Agreement, or any other Project which may be reallocated to the revised budget of the revised Project;
- (4) The funds remaining in the Agreement contingency, should one be part of this Agreement, or any other Project after reallocation of funds to the revised budget for the Project are sufficient to provide for the uncompleted portions of all other Projects within the Agreement; and
- (5) The proposed revision will not cause the aggregate amount of all Project Budgets as set forth on Exhibit B to be exceeded.

#### **ARTICLE V: METHOD OF FUNDING**

5.1 The RTA may finance its obligations, or any portion thereof, under this Agreement in any way it deems, in its sole discretion, to be most advantageous and fiscally sound, provided that nothing in this Agreement shall cause the Recipient to be obligated to any creditor of the RTA with respect to such financing.

5.2 All or part of any share of the Net Project Cost to be contributed by the Recipient may, with the express written prior approval of the RTA, be provided by the Recipient in the form of contributions of professional, technical or other services. The amount or value of any share of the Net Project Cost contributed by the Recipient is shown in Exhibit B.

5.3 In the event that the Recipient receives funds from any source with respect to the completion of the Project which do not appear in Exhibit B and were not included in determining the RTA share under paragraph 4.1(b) of this Agreement, the amount of this Agreement shall be recalculated and a proportionate amount of the RTA funding shall be refunded to the RTA. Such funds include, but are not limited to, the proceeds of any sale and leaseback arrangement with respect to Project Facilities, if any. This Section 5.3 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise for a period equal to the Service Life of the relevant Project Facility.

## ARTICLE VI: ACCOMPLISHMENT OF THE PROJECT(S)

### 6.1 General.

(a) The Recipient shall commence, carry on, and complete the Project(s) with all practicable dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement. The Recipient shall cause all contractors involved with the Project(s) to deliver and complete the Project(s) in accordance with the Project schedules submitted at time of application or as revised pursuant to paragraph 6.2(b) of this Agreement.

(b) In performance of its obligations pursuant to this Agreement, the Recipient and the contractors shall comply with all applicable provisions of federal, state, and local law. Specifically, Recipient and contractors agree to administer the Project in accordance with the applicable federal and state provisions, including all applicable Federal Transit Administration (hereinafter referred to as "FTA") Circulars and 49 CFR 18 and 19. All limits and standards set forth in this Agreement to be observed in the performance of a Project are minimum requirements and shall not affect the application of more restrictive standards to the performance of the Project.

(c) At or prior to the time that funds are needed to meet Project costs, the Recipient shall initiate and prosecute to completion all proceedings necessary to enable the Recipient to provide any share of the Net Project Cost which is to be provided by the Recipient.

(d) Nothing in this Agreement is intended to subject the RTA to any obligations or liabilities to contractors of the Recipient, or their respective subcontractors, or any other person not a party to this Agreement in connection with the performance of any Project pursuant to the provisions of this Agreement, notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

### 6.2 Project Completion.

(a) Any failure, except a force majeure event or any other reason beyond the control of the Recipient, to make progress which significantly endangers substantial performance of a Project within a reasonable time shall be deemed to be a violation of the terms of this Agreement.

(b) The Recipient shall complete each Project in accordance with the Project completion date provided at time of application or as revised. In the event the Recipient determines that, for whatever reason, a Project cannot be completed in accordance with the Project schedule, the Recipient shall immediately notify the RTA in writing, within thirty days, of: 1) the nature and extent of the delay; 2) the reason or reasons for the delay; 3) the adjustments to the Project schedule which can be made to ensure that the Project is completed on schedule; and 4) if the Project cannot be completed on schedule, the implications on the Project Budget due to the delay.

### 6.3 Use of Facilities

(a) The Project Facilities, if any, shall be used by the Recipient as described in the Recipient's final, approved Application.

(b) If during the Service Life, the Project Facilities are not used in this manner, are sold or are otherwise disposed of, or are withdrawn from mass transportation service at the initiative of the Recipient (if applicable), the Recipient shall immediately notify the RTA and shall, at the RTA's discretion, remit to the RTA a proportional amount of the fair market value, if any, of the Project Facilities (determined on the basis of the ratio of the amounts paid by the RTA pursuant to this Agreement to the total cost of such Project Facilities). The fair market value shall be deemed to be the value of the Project Facilities as determined by a competent appraisal conducted as soon as feasible after such withdrawal or misuse occurs; or the actual proceeds from the public sale of such property, whichever is approved by the RTA; or, for rolling stock, the unamortized value of the remaining service life per unit based on straight-line depreciation of the original purchase price. Any appraiser employed for such purposes shall be subject to disapproval by the RTA on the grounds that it is not an independent appraiser.

(c) The Recipient shall maintain, in an amount and form satisfactory to the RTA, insurance or self-insurance with such reserves as will be adequate to protect Project Facilities throughout the period of their useful lives. The cost of such insurance shall not be an Allowable Cost for the Projects.

(d) This Section 6.3 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise, for a period equal to the Service Life of the relevant Project Facility.

#### **ARTICLE VII: PASS-THROUGH FUNDING PROVISIONS**

7.1 If this Agreement provides any portion of funding for which the RTA receives funds from a governmental entity subject to agreement, grant, or contract, the provisions contained therein and as detailed in the attached Exhibit C, Federal Certifications and Assurances, are hereby incorporated by reference and made a part of this Agreement. The Recipient shall carry out each Project in such a manner as to comply with the requirements contained herein and the requirements of any governmental agreement, rules and regulations applicable to this Project. If it is not possible to carry out the project in such a manner, the Recipient shall, as soon as practicable, notify the RTA in writing of the specific provisions of each agreement, rule or regulation in conflict and reasons for conflict in order that appropriate arrangements may be made between the parties and any governmental entity to permit the Project to proceed.

7.2 The Recipient acknowledges that federal and state governmental requirements may change and the changed requirements will apply to the Project as required. The Recipient acknowledges that a reference to a specific law in this Agreement is considered to be a reference to 1) such law as it may be amended, modified or supplemented from time to time, 2) all regulations and rules pertaining to or promulgated pursuant to such law, (c) the successor to the law resulting from recodification or similar reorganizing of laws and (d) all future laws pertaining to the same or similar subject matter. The Recipient agrees to include in all subcontracts or lower tier agreements specific notice to this effect.

7.3 The Illinois Department of Transportation (IDOT) and the FTA shall not be subject to any obligations or liabilities by or to the Recipient or contractors of the Recipient or their subcontractors or any other person not party to this Agreement in connection with the performance of this Project, without their respective express written consent, notwithstanding the concurrence in or approval of the solicitation or the award by IDOT or FTA to such contractors or subcontractor(s). The Recipient agrees to include this clause in each subcontract or lower tier agreement financed in whole or in part with federal and/or state assistance.

## **ARTICLE VIII: PROJECT ADMINISTRATION AND MANAGEMENT**

### 8.1 Project Management.

- (a) The Recipient is responsible for administration and management of each Project.
- (b) The RTA or its designee may conduct periodic on-site inspections of each Project to evaluate the effectiveness of the Recipient's arrangement for supervision and inspection and to evaluate the work done on the Project and adherence to this Agreement. The Recipient shall provide reasonable access to its premises, or cause its contractors to provide reasonable access to their premises, for the RTA and its designee to permit these inspections. Inspection of, or concurrence by, RTA in Project work does not relieve the Recipient of its responsibilities and liabilities. Any inspection must be coordinated with the Recipient's personnel for purposes of providing reasonable notice and adhering to safety regulations.
- (c) Any Project management plan or amendment to such plan provided pursuant to any governmental agreement, grant or contract for any Project in this Agreement shall require written approval of the RTA.
- (d) The Recipient shall report to the RTA regarding all Projects in this Agreement and shall provide to the RTA such information that the RTA deems necessary to meet its reporting responsibilities or other requests from the FTA or any other governmental agency. When requesting reimbursement from the RTA, the Recipient will be required to submit detailed requisitions and progress reports supported by properly executed payrolls, time records, invoices, contracts, or vouchers, evidencing in detail the nature and propriety of the charges.

## **ARTICLE IX: REQUISITION, PAYMENT PROCEDURES, AND RECORD KEEPING**

9.1 The Recipient shall establish and maintain as a separate set of accounts, or as an integral part of its current accounting scheme, accounts for each Project in conformity with requirements established by the RTA.

### 9.2 Allowable Costs.

Funds provided by the RTA under this Agreement shall only be used to pay or reimburse the Recipient for allowable costs for a Project which meets all of the requirements set forth below:

- (a) They shall be made in conformance with the final, approved Exhibit A, Scope of Services, and Exhibit B, Project Budget(s), and all other provisions of this Agreement;



- (b) They shall be necessary in order to accomplish the Project;
- (c) They shall be reasonable in amount for the goods or services purchased;
- (d) They shall be actual net costs to the Recipient (i.e., the price paid minus any refunds, rebates, or other items of value received by the Recipient which have the effect of reducing the cost actually incurred);
- (e) They shall be incurred (and for work performed) after the effective date of this Agreement, unless specific authorization from the RTA to the contrary is received (in no event will the RTA provide funding to reimburse expenses incurred after expiration of this Agreement);
- (f) To the extent applicable, they shall be in conformance with the standards for allowability of costs established by IDOT. State of Illinois rates apply for lodging and meals.
- (g) They shall be satisfactorily documented;
- (h) They shall be treated uniformly and consistently under accounting principles and procedures approved or prescribed by generally accepted accounting principles, and those approved or prescribed by the Recipient for its contractors; and
- (i) They shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges. (In the event that it may be impractical to determine exact costs of indirect or service functions, allowable costs will include such allowances for these costs as may be approved by the RTA.)

### 9.3 Payment Procedures.

(a) The Recipient may make requests for payment of allowable costs under the Agreement, and the RTA shall honor such requests in the manner set forth in this paragraph. In order to receive payments, the Recipient shall:

- (1) Execute and submit to the RTA a requisition for approval by the RTA;
  - (2) Have submitted all financial, progress, and other reports required by the RTA;
- and
- (3) Have received approval by the RTA for any budget revisions required to cover all costs to be incurred by the end of the requisition period.

(b) Upon receipt of the completed requisition form and the accompanying information in satisfactory form, the RTA shall process the requisition. If the Recipient is complying with its obligations pursuant to the Agreement, the RTA shall reimburse apparent allowable costs incurred by the Recipient up to the maximum amount of the RTA Agreement. Such reimbursement shall be made within sixty (60) days after receipt of each request for same from the recipient. However, reimbursement of any cost pursuant to this paragraph shall not constitute a final determination by the RTA of the allowability of such cost and shall not constitute a waiver of any violation of the terms of this Agreement committed by the Recipient. The RTA will make a final determination as to the allowability of costs only after a final audit of the Agreement has been conducted pursuant to Article XI of the Agreement.

(c) In the event that the RTA determines that the payment should not be made, it shall notify the Recipient within twenty (20) days after receipt of the completed requisition form, stating the reasons for such determination.

(d) The Recipient agrees that upon completion of all of the Projects in this Agreement and after payment or provision for payment or reimbursement of all allowable costs, the Recipient shall refund to the RTA any unexpended balance of funds received by the Recipient under this Agreement.

#### 9.4 Records Retention.

(a) All books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this Agreement, this Agreement and all books, records, and supporting documents related to the Agreement must be retained by Recipient for a minimum of five (5) years after completion of this Agreement or such longer time as may be required by any governmental agency from which funds are obtained and shall be available for review and audit by authorized representatives of the RTA, the Illinois Auditor General, IDOT, the FTA, or another governmental agency with the following qualifications:

(1) All records must be retained until final audit is completed and all audit findings are resolved, unless otherwise agreed to by the RTA;

(2) If any litigation or claim is initiated before completion of the final audit, records must be retained until all litigation or claims involving these records have been resolved; and

(3) Records of any property acquired with RTA funds must be retained for three years after final disposition of the property.

(b) Should the Recipient administer any system of records on behalf of the Federal or State Government, the Privacy Act of 1974, 5 USC 552 and 49 CFR 10, Subpart C, imposes information restrictions on the party managing the system of records.

9.5 Audits.

(a) Pursuant to all applicable Office of Management and Budget Circulars, the Recipient shall permit, and shall require its contractors to permit, at anytime, the RTA, or IDOT or other state or federal agency, authorized to perform such audit and inspection, to inspect all work, materials, payrolls, and other data and records, including computer or electronically generated records, documents, and data, with regard to each Project, and to audit the books, records, and accounts of the Recipient and its contractors with regard to each Project. The RTA also may require the Recipient to furnish at any time prior to closeout of the Agreement, audit reports with respect to the Agreement prepared according to generally accepted accounting principles. The Recipient agrees to promptly comply with recommendations contained in any RTA, IDOT or other state or federal agency final audit report.

(b) In accordance with 49 USC 5325(g), the Grantee agrees to require each third party whose contract award is not based on competitive bidding procedures as defined by the Secretary of U.S. DOT, to permit the Secretary, Comptroller General of the U.S., IDOT, the RTA, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that third party contract and audit the books, records, and accounts involved.

**ARTICLE X: RIGHT OF THE RTA TO TERMINATE**

10.1 Upon written notice to the Recipient, the RTA may suspend or terminate all or part of the financial and/or technical assistance provided herein if the Recipient is or has been in violation of the terms of the Agreement (including its obligation to provide for a portion of the funding for each Project as reflected on Exhibit B, if applicable), or if funding provided to the RTA pursuant to paragraph 7.1 is terminated. Termination of any Project in this Agreement will not invalidate obligations of the RTA to reimburse the Recipient for Project costs incurred up to and including the date of termination, nor invalidate obligations of the Recipient, properly incurred by the Recipient, to the extent they are noncancellable. The acceptance of a remittance by the RTA of any or all Project funds previously received by the Recipient or the closing out of the RTA financial participation in the Project shall not constitute a waiver of any claim which the RTA may otherwise have arising out of this Agreement.

For example, the foregoing remedies shall become available to the RTA if one of the following occurs:

(a) There is any misrepresentation of a material nature in the Application, or amendment thereof, or in respect to this Agreement or any document or data furnished pursuant hereto, or any other submission of the Recipient required by the RTA in connection with this Agreement;

(b) There is pending litigation which, in the opinion of the RTA, may jeopardize funding provided to the RTA pursuant to paragraph 7.1 of this Agreement;

(c) There has been in connection with the funding provided to the RTA pursuant to paragraph 7.1, any violation of the state or federal regulations, ordinances or statutes applicable to the Recipient, its officers or employees which, in the opinion of the RTA, affects this Agreement;

(d) Any funds provided by the RTA pursuant to this Agreement are used for an ineligible purpose;

(e) The Recipient is unable to substantiate the proper use of funding provided to the RTA pursuant to paragraph 7.1;

(f) The Recipient is in default under any of the provisions of this Agreement;

(g) There is failure to make progress which significantly endangers substantial completion of performance of the Project within a reasonable time, which failure shall be deemed to be a violation of the terms of this Agreement;

(h) The Recipient has failed to maintain the Project Facilities as required by this Agreement;

(i) The RTA determines that the purposes of the applicable governing laws would not be adequately served by continuation of state or federal assistance to the Project;

(j) The State Legislature or any federal agency fails to make sufficient appropriations for funding pertinent to that provided to the RTA pursuant to paragraph 7.1.

#### **ARTICLE XI: SETTLEMENT AND CLOSE-OUT**

11.1 Upon receipt of notice of successful completion of the Agreement or upon termination by the RTA, the RTA at its discretion will perform or contract for the performance of a final audit to determine the final allowability of costs incurred, and shall make final settlement of the RTA's obligations described in this Agreement. If the RTA has made payments to the Recipient in excess of the total amount of such RTA obligations, the Recipient shall promptly remit such excess to the RTA. The Agreement close-out occurs when the RTA notifies the Recipient and forwards the final Agreement payment or when an appropriate refund of RTA Agreement funds has been received from the Recipient and acknowledged by the RTA. Agreement close-out shall be subject to any continuing obligations imposed on the Recipient by this Agreement or contained in the final notification or acknowledgment from the RTA.

#### **ARTICLE XII: PROCUREMENT**

##### **12.1 Procurement Procedures.**

(a) The Recipient shall follow applicable federal, state, and local law and procedures when awarding and administering contracts for goods and services funded by this Agreement. Any such contract or subcontract for goods, property and services exceeding \$10,000 shall contain all the clauses pursuant to FTA Circular 4220.1E and 49 CFR 18.36, 19.40-19.48, and the parties shall comply with the requirements therein.

(b) Apart from inconsistent requirements imposed by federal and state law, the Recipient (and its subcontractors) agrees that no federal or state funds shall be used to support procurement utilizing exclusionary or discriminatory specifications and it will comply with 49 USC 5323(h)(2).

(c) The Recipient agrees to comply with U.S. Maritime Administration Regulations, "Cargo Preference – U.S. Flag Vessels," 46 CFR 381, to the extent those regulations apply to the Project, and insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

(d) To the extent applicable, the Recipient agrees to comply with the requirements of 49 USC 5323 and FTA regulations, "Bus Testing", 49 CFR 665, and agrees to provide the RTA with applicable certifications and obtain applicable certifications from contractors, subcontractors and manufacturers.

(e) Each third party contract (valued at more than \$100,000 for Construction and Acquisition of Goods or Rolling Stock) utilizing FTA assistance must conform with 49 USC 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR 661.

(f) The Recipient agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by federal statute, and as permitted by IDOT and FTA.

(g) The Recipient agrees to comply with the requirements of Executive Order No. 12549 and 12689 "Debarment and Suspension," and U.S. Department of Transportation (DOT) regulations on Debarment, 49 CFR 29, and agrees to obtain applicable certifications from contractors and subcontractors and otherwise comply with federal and state regulations.

(h) The Recipient certifies that it has not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or local government, nor has the Recipient made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of the Recipient committed bribery or attempted bribery on behalf of the Recipient and pursuant to the direction or authorization of a responsible official of the Recipient. The Recipient further certifies that it has not been barred from contracting with a unit of the State or local government as a result of a violation of Title III, Part E, Article 33 of the Criminal Code.

(i) Electronic and Information Technology – to the extent applicable, Recipient agrees to include in its specification requirements that all reports or information will be prepared and provided using electronic or information technology capable of assuring that, when provided to the RTA, it will meet with the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 USC 794(d) and U.S. Architecture and Transportation Barriers Compliance Board (ATBCB) regulations "Electronic and Information Technology Accessibility Standards," 36 CFR 1194.

## 12.2 Procurement Review.

The Recipient must obtain preaward approval from the RTA for: (1) any proposed third party contract; (2) any change order with a third party contractor; and (3) any use of force account for activities funded by this Agreement.

### **ARTICLE XIII: SETTLEMENT OF THIRD PARTY CONTRACT DISPUTES OR BREACHES**

13.1 The RTA has a vested interest in the settlement of disputes, defaults, or breaches involving any RTA-assisted third party contracts for any Project. The RTA retains a right to a proportional share, based on the percentage of the RTA share committed to any Project, of any proceeds derived from any third party recovery, after taking into account any costs incurred by the Recipient in securing the recovery. Therefore, the Recipient shall avail itself of all legal rights available under any third party contract. The Recipient shall notify the RTA of any litigation pertaining to any third party contract. The RTA reserves the right to concur in any compromise or settlement of the Recipient's claim(s) involving any third party contract. If the third party contract contains a liquidated damages provision, such proportional share of any liquidated damages recovered shall be credited to the Project account unless the RTA permits otherwise.

### **ARTICLE XIV: ASSIGNMENT OF CONTRACT -- SUBCONTRACTORS**

14.1 The Recipient agrees that no contract for services of any kind in connection with a Project funded by this Agreement shall be assigned, transferred, conveyed, sublet, or otherwise disposed of without the prior written consent of the RTA. All subcontracts shall contain all applicable contract clauses pursuant to federal and state requirements, and as required by this Agreement.

### **ARTICLE XV: INDEMNIFICATION**

15.1 The Recipient agrees to save or hold harmless and indemnify the RTA from and against any and all losses, expenses, damages (including loss of use), demands, and claims, and shall defend any suit or action, whether at law or in equity, brought against it based on any alleged injury (including death) or damage relating to or arising out of any act or omission of the Recipient, its officers, employees and agents with respect to any Project funded by this Agreement and shall pay all damages, judgments, costs, and expenses, including attorney's fees, in connection with any demands and claims resulting therefrom; provided, however, that the Recipient shall not be required to save harmless, indemnify, or defend the RTA due to the negligence or misconduct of the RTA or its successors, assigns, agents, or employees or their respective failure to reasonably perform under this Agreement. This Section 15.1 shall survive the termination or expiration of this Agreement, whether by lapse of time or otherwise.

### **ARTICLE XVI: INDEPENDENCE OF RECIPIENT**

16.1 In no event shall the Recipient or any of its employees, agents, contractors or subcontractors be considered agents or employees of the RTA, IDOT, FTA, U.S. Department of Transportation, or State of Illinois. Furthermore, the Recipient agrees that none of its employees, agents, contractors, or subcontractors will hold themselves out as, or claim to be, agents, officers, or employees of the RTA, U.S. Government, or State of Illinois and will not by reason of any relationship with the Agreement make any claim, demand, or application to or for any right or privilege applicable to an agent, officer, or employees of the RTA, U.S. Government, or State of Illinois, including but not limited to, rights and privileges concerning workmen's compensation and occupational diseases coverage, unemployment compensation benefits, Social Security coverage, or retirement membership or credit.

## **ARTICLE XVII: NON-COLLUSION**

17.1 The Recipient warrants that it has not paid and agrees not to pay any bonus, commission, fee, or gratuity for the purpose of obtaining any approval of its Application for any Project pursuant to this Agreement. No Recipient officer or employee, or member of any unit of local government which contributes funds to any Project funded by this Agreement shall be admitted to any share or part of this Agreement or to any benefit arising therefrom other than nominal.

## **ARTICLE XVIII: CONFLICTS OF INTEREST**

18.1 The Recipient hereby certifies that: (1) no employee, officer, board member, or agent of the Recipient is a director, officer or employee of the RTA or (2) if such relationship exists, it is not prohibited by any applicable conflict of interest laws. The Recipient further certifies that, to its knowledge, no employee, officer, board member, or agent of the Recipient has participated in the selection, award, or administration of a contract supported by federal or state funds where such participation constitutes a conflict of interest, whether real or apparent. This conflict of interest requirement applies to all former employees, officers, board members, and agents for one year from the date the employee, officer, board member, or agent ended its employment with the Recipient.

The Recipient acknowledges that no director, officer or employee of the RTA may represent the Recipient with respect to any application or agreement in regard to which such director, officer or employee may be called upon to vote. The Recipient hereby certifies that it has not been, and shall not be, represented by any director, officer or employee of the RTA with respect to its application for financial or financial and technical assistance or this Agreement.

The Recipient agrees that its employees, officers, board members, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The RTA may waive the prohibition contained in this subsection, provided that any such present employee, officer, board member, or agent shall not participate in any action by the Recipient relating to such contract, subcontract, or arrangement.

18.2 The Recipient agrees that it will prevent any real and apparent organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or subcontract may, without some restriction on future activities, result in an unfair competitive advantage to the third party contractor or recipient or impair the objectivity in performing the contract work.

## **ARTICLE XIX: RECIPIENT'S RESPONSIBILITY FOR COMPLIANCE**

19.1 Irrespective of the participation of other parties or third party contractors, the Recipient remains primarily responsible for compliance with this Agreement and all applicable federal, state, and local laws and regulations.

## ARTICLE XX: LABOR LAW COMPLIANCE

20.1 The Recipient agrees to comply with the labor law compliance provisions of any FTA grant contract pertaining to any Project funded by this Agreement and all applicable federal and state labor laws and regulations including, but not limited to, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees.

(a) **Contract Work Hours and Safety Standards.** The requirements of the clauses contained in 29 CFR 5.5(b) are applicable to any contract subject to the overtime provisions of the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1. The Recipient and its subcontractors shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contracts for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this clause shall be made available by the Recipient or its subcontractors for inspection, copying, or transcription by authorized representatives of the FTA, U.S. Department of Transportation, or Department of Labor, and the Recipient or its subcontractors will permit such representatives to interview employees during working hours on the job.

(b) The Recipient or contractor shall insert in any subcontract the clauses set forth in 29 CFR 5.5(b), 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 29 CFR 5.5(b) involving overtime pay, unpaid wages and withholding for unpaid wages.

20.2 The Recipient also agrees to require any contractor performing professional or consulting service in connection with any Project funded by this Agreement to agree to adhere to the requirements of this Article.

## ARTICLE XXI: CIVIL RIGHTS

### 21.1 Non Discrimination.

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all federal, state, and local laws, rules, regulations and ordinances relating to non-discrimination including, but not limited to, all requirements of Title VI of the Civil Rights Act of 1964, 42 USC 2000(d); Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC 6101, Section 202 of the Americans with Disabilities Act of 1990, 42 USC 12101 *et seq.*, Federal Transit Law at 49 USC 5332, and US DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 CFR 21, and any implementing requirements the FTA may issue.



## 21.2 Equal Employment Opportunity Clauses.

(a) Federal Equal Employment Opportunity – The following requirements apply to the Project and the Recipient agrees to include these requirements in each contract and subcontract financed in whole or in part with federal assistance provided by FTA.

(1) Discrimination Prohibited – In accordance with 42 USC 2000(e), 49 USC 5332, the Recipient agrees to comply with any applicable Federal statutes, executive orders, regulations, and Federal policies including the U.S. Department of Labor regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR 60 *et seq.*, (which implement E.O. No. 11246, “Equal Employment Opportunity,” as amended by E.O. No. 11375, “Amending E.O. No. 11246 relating to Equal Employment Opportunity,”) that may in the future affect construction activities undertaken in the course of this Project. The Recipient agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to race, color, creed, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(2) EEO Program Incorporated by Reference – If the Recipient is required to submit and obtain approval of its EEO program, that EEO program approved by the United States or State of Illinois government is incorporated by reference and made a part of this Agreement. Failure by the Recipient to carry out the terms of that EEO program shall be treated as a violation of this Agreement. Upon notification of its failure to carry out the approved EEO program, the RTA and the United States or State of Illinois government may impose such remedies as it considers appropriate, including termination of financial assistance, or other measures that may affect the Recipient’s eligibility to obtain future financial assistance in transportation projects.

(3) Age – In accordance with 49 USC 5332, the Recipient agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(4) Disabilities – In accordance with 42 USC 12101, the Grantee agrees that it will comply with the requirements of 29 CFR 1630, pertaining to the employment of persons with disabilities. In addition, the Recipient agrees to comply with any implementing requirements FTA may issue.

(5) Sex – In accordance with Title IX of The Educational Amendments of 1972, as amended, 20 USC 1681 *et seq.*, and U.S. Department of Transportation regulations 45 CFR 86, the Recipient agrees to comply with prohibitions against discrimination on the basis of sex, and any federal requirements that may be promulgated.

(6) Language Proficiency – In accordance with Executive Order No. 13166, the Grantee agrees to comply with the applicable provisions of said Executive Order, “Improving Access to Services for Persons with Limited English Proficiency,” for improving access to services for persons with limited English proficiency, *see* 42 USC 2000d-1.

(7) Environmental Justice – The Recipient shall comply with the applicable policies of Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”, *see* 42 USC 4321 note.

(b) Sexual Harassment – The Recipient will have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment, under state law; (iii) a description of sexual harassment, utilizing examples; (iv) the Recipient’s internal complaint process including penalties; (v) the legal recourse, investigative, and complaint process available through the Department of Human Resources and the Human Rights Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* A copy shall be provided to the RTA upon request.

(c) Illinois Human Rights Act - In the event of the Recipient’s non-compliance with the provisions of the Illinois Equal Employment Opportunity Clause, the Illinois Human Rights Act or the rules and regulations (the “Rules and Regulations”) of the Illinois Department of Human Rights (the “IDHR”), the Recipient may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Agreement the Recipient agrees as follows:

(1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

(2) That, if it hires additional employees in order to perform this Agreement or any portion thereof, it will determine the availability (in accordance with the IDHR Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

(3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

(4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Recipient’s obligations under the Illinois Human Rights Act and the IDHR Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Recipient in its efforts to comply with such Act and Rules and Regulations, the Recipient will promptly so notify the IDHR and the contracting agency and will recruit employees for other sources when necessary to fulfill its obligations thereunder.

(5) That it will submit reports as required by the IDHR Rules and Regulations, furnish all relevant information as may from time to time be requested by the IDHR or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the IDHR Rules and Regulations.

(6) That it will permit access to all relevant books, records, accounts and work sites by personnel for the contracting agency and the IDHR for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the IDHR Rules and Regulations.

(7) That it will include verbatim or by reference the provisions of this section in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this Agreement, the Contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the IDHR in the event any subcontractor fails to or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

### 21.3 Disabilities.

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all applicable federal and state requirements under the ADA and all applicable federal and state laws and regulations relating to procurement and access requirements in accommodating individuals with disabilities. The Recipient shall comply with, and agrees to include the following requirements in each contract or subcontract, applicable state and federal requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC 12101, *et seq.*; 49 USC 5301(d); Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; Architectural Barriers Act, as amended, 42 USC 4151, *et seq.*; including any amendments to the aforementioned Acts; and the following regulations and amendments thereto:

(a) DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR 37; "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance," 49 CFR 27; "Americans with Disabilities Act (ADA) Accessibility Guidelines/Specifications for Transportation Vehicles," 36 CFR 1192 and 49 CFR 38;

(b) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR 35; and "Nondiscrimination on the Basis of a Disability by Public Accommodations and in Commercial Facilities," 28 CFR 36;

(c) Uniform Federal Accessibility Standards, Appendix A to 41 CFR 101-19.6 (Copies of the Uniform Federal Accessibility Standards are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, telephone (202) 708-1112;

(d) U.S. EEOC regulations to implement the equal employment provisions of the ADA, 29 CFR 1630;

(e) Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR 64, Subpart F;

(f) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR 609;

(g) U.S. ATBCB regulations "Electronic and Information Technology Accessibility Standards", 36 CFR 1194; and

(h) Any implementing requirements FTA may issue.

#### 21.4 Disadvantaged Business Enterprises.

(a) In accordance with 49 CFR Part 26.13(a), as amended, the Recipient assures the RTA that it shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement or the award and performance of any subcontract hereunder. Furthermore, the Recipient shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Recipient to carry out these requirements is a material breach of this Agreement, which may result in its termination or such other remedy as the RTA deems appropriate. The Recipient further agrees to include the language set forth in this Disadvantaged Business Enterprise Assurance in each subcontract it executes.

### ARTICLE XXII: ENVIRONMENTAL COMPLIANCE

The Recipient shall comply with and shall require its contractors and subcontractors to comply with all federal, state, and local laws, rules, regulations and ordinances imposing environmental, resource conservation, and energy requirements with respect to the Project. The Recipient expressly understands that the following items do not constitute the Recipient's entire obligation to meet federal requirements. The Recipient agrees to comply with the following requests:

22.1 Energy Conservation – The Recipient and its contractors at all tiers shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 USC 6321 *et seq.*

22.2 Clean Fuels – To the extent applicable the Recipient and its contractors and subcontractors shall comply with the requirements of "Clean Fuels Formula Grant Program", 49 CFR 624 and any other applicable federal requirements, and 49 USC 5308.

## ARTICLE XXIII: DRUG FREE WORKPLACE

23.1 The Recipient certifies and agrees that it will provide a drug-free workplace as required by the Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and that it will comply with all provisions thereof. Further, the Recipient agrees to comply with the U.S. DOT Drug Free Workplace Act, and U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)", 49 CFR 32, and other U.S. DOT and FTA regulations and guidance pertaining to substance abuse (drugs and alcohol) that may be promulgated.

23.2 If applicable, the Recipient also agrees to comply with all aspects of the anti-drug program outlined in the "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" regulation, 49 CFR 655; "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" regulation, 49 CFR 40, and to require contractors and subcontractors, when applicable under 49 U.S.C. 5331 and 49 CFR 655, to do the same.

23.3 Confidentiality – Drugs or Alcohol Abuse. The Recipient shall comply with, and agrees to include the following requirements in each contract or subcontract, applicable state and federal requirements of confidentiality and other Civil Rights provisions of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC 1174 *et seq.* and the Public Health Service Act of 1912, 42 USC 290dd-2, including any amendments to the aforementioned Acts;

## ARTICLE XXIV: RESTRICTIONS ON LOBBYING

24.1 (a) If this Agreement provides funding in whole or in part from federal funds for a Project(s), the Recipient agrees to comply with Section 319 of the 1990 Department of Interior and Related Agencies Appropriations Act, 31 USC 1352 relating to restrictions on influencing or attempting to influence federal officials in connection with grants, cooperative agreements, or contracts. By executing this Agreement, the Recipient certifies its compliance with this Act as specifically described in subparagraphs (b) and (c) below.

(b) The Recipient agrees that no federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(c) The Recipient further agrees that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(d) The Recipient shall require that the language of this Article XXIV be included in the award documents for all third party contracts and that all such contractors shall certify and disclose accordingly.

## **ARTICLE XXV: SEVERABILITY**

25.1 If any provision of this Agreement is held invalid for any reason whatsoever, the remaining provisions shall not be affected thereby if such remainder would continue to conform to the purposes, terms, and requirements of applicable law.

## **ARTICLE XXVI: ASSIGNMENT AND AGREEMENT**

26.1 This Agreement shall not be assigned, transferred, conveyed, sublet, or otherwise disposed of by the Recipient without the prior written consent of the RTA.

## **ARTICLE XXVII: AMENDMENT**

27.1 The Parties agree that no change of the aggregate amount of all Project Budgets or a modification in scope of this Agreement shall be of any force or effect unless such amendment is dated, reduced to writing, executed by both parties, and attached to and made a part of this Agreement. No work shall be commenced and no costs or obligations incurred in consequence of any amendment to this Agreement or any attachments hereto unless and until such amendment has been executed and made a part of this Agreement and Exhibit A, Scope of Services, and Exhibit B, Project Budget, for each Project as appropriate, has been amended to conform thereto.

## **ARTICLE XXVIII: TITLES**

28.1 The Parties agree that the titles of the articles and paragraphs of this Agreement are inserted for convenience of identification only and shall not be considered for any other purpose.

## **ARTICLE XXIX: OWNERSHIP OF DOCUMENTS/TITLE TO WORK**

29.1 All documents, data, and records produced by Recipient and its contractors in carrying out Recipient's obligations and services hereunder, without limitation and whether preliminary or final, as between the RTA and Recipient shall become and remain the property of the RTA. The RTA shall have the right to use all such documents, data, and records without restriction or limitation and without additional compensation to Recipient. All documents, data, and records utilized in performing research shall be available for examination by the RTA upon request. Upon completion of the services hereunder or at the termination of this Agreement, all such documents, data, and records shall, at the option of the RTA, be appropriately arranged, indexed, and delivered to the RTA by Recipient.

29.2 In accordance with 37 CFR 401, if any invention, improvement, or discovery of the Recipient or any of its subconsultants is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify the RTA, IDOT and FTA immediately and provide a detailed report. The rights and responsibilities of the Recipient, its subcontractors, the RTA, IDOT, and FTA, with respect to such invention, improvement, or discovery will be determined in accordance with applicable state and federal laws, regulations, policies, and any waiver thereof. The Recipient agrees to insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

29.3 Rights in Data and Copyrights: The Recipient agrees as follows:

(a) The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media, such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms, such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to project administration.

(b) The following provisions apply to all subject data first produced in the performance of this Agreement:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the written consent of RTA, IDOT, or FTA, until such time as RTA, IDOT, or FTA, may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to agreements with academic institutions.

(2) As authorized by 49 CFR Part 18.34 and 49 CFR Part 19.36, RTA, IDOT and FTA reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "federal and state government purposes:"

(i) Any subject data developed under a grant, cooperative agreement, subgrant, subagreement, or third party contract, irrespective of whether or not a copyright has been obtained; and

(ii) Any rights of copyright to which a third party consultant purchases ownership with federal or state assistance.

(c) When the federal or state government provides assistance to a grantee for a Project involving planning, research, development, or a demonstration, it is generally FTA and IDOT's intent to increase the body of mass transportation knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless FTA or IDOT determine otherwise, the recipient of IDOT or FTA assistance to support planning, research, development, or a demonstration financed under the Acts, as amended, understands and agrees that, in addition to the rights set forth in section 29.3 (b) above, IDOT or FTA may make available to any government grantee, third party consultant, or third party subconsultant, either the federal or state government's license in the copyright to the subject data first produced under this Agreement. In the event that such a Project, which is the subject of this Agreement, is not completed for any reason whatsoever, all data developed under that Project shall become subject data as defined in section 29.3 (a) above, and shall be delivered as RTA may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use, which costs are financed in whole or in part with IDOT or FTA assistance for transportation capital projects.

(d) Unless prohibited by state law, the Recipient agrees to indemnify, save, and hold harmless the RTA, the State of Illinois and FTA, as their officers, agents, and employees acting within the scope of their official duties, against any liability, including costs and expenses, resulting from any violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Recipient shall not be required to indemnify the RTA, the State of Illinois and FTA for any such liability arising out of the wrongful acts of employees or agents of the RTA, the State of Illinois or FTA.

(e) Nothing contained in this section on rights in data shall imply a license to the RTA, IDOT or FTA under any patent to be construed as affecting the scope of any license or other right otherwise granted to the RTA, IDOT and FTA under any patent.

(f) The requirements of sub-sections (c), (d), and (e) of section 29.3 above, do not apply to material furnished to the Recipient by the RTA, IDOT and FTA and incorporated in the work carried out under this Agreement; provided that such incorporated material is identified by the Recipient at time of delivery of such work.

(g) The Recipient understands and agrees that data and information submitted to the RTA, IDOT or FTA may be required to be made available under the Freedom of Information Act or other state or federal statutes in accordance with 49 CFR 19.36, as revised.

#### **ARTICLE XXX: ETHICS**

30.1 Bribery - Non-governmental Grantees and third-party contractors shall certify that they have not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or local government. They also certify that they have not admitted guilt of such conduct which is a matter of record, nor do they have an official, agent, or employee who has committed bribery or attempted bribery on the firm's behalf under the direction or authorization of one of the Grantee's responsible officials. They also certify that they have not been barred from contracting with a State or local governmental unit as a result of a violation of Title III, Part E, Article 33 of the Illinois Criminal Code.

#### **ARTICLE XXXI: PRIVACY**

31.1 Should the Grantee, or any of its third party contractors, or their employees, administer any system of records on behalf of the Federal or State Government, the Privacy Act of 1974, 5 U.S.C. 552 and 49 CFR 10, Subpart C, imposes information restrictions on the party managing the system of records.

#### **ARTICLE XXXII: DOCUMENTS FORMING THIS AGREEMENT**

32.1 The Parties agree that this constitutes the entire Agreement between the Parties hereto, that there are no agreements or understandings, implied or expressed, except as specifically set forth or incorporated by reference in the Agreement and that all prior arrangements and understandings in the connection are merged into and contained in this Agreement. The Parties hereto further agree that this Agreement consists of this "Technical Services Agreement," and:



- Exhibit A, Scope of Services
- Exhibit B, Project Budget
- Exhibit C, Certifications and Assurances

#### ARTICLE XXXIII: SPECIAL CONDITIONS

33.1 None

#### ARTICLE XXXIV: MISCELLANEOUS

34.1 Notices. All notices, other communications and approvals required or permitted by this Agreement shall be in writing and shall be delivered, sent by certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

- (a) in the case of the RTA:  
175 West Jackson Boulevard  
Suite 1550  
Chicago, Illinois 60604  
Attention: Joseph Voccia
  
- (b) in the case of the Recipient:  
600 Winchester Road  
Libertyville, Illinois 60048  
Attention: Bruce Christensen

or such other persons or addresses as either party may from time to time designate by notice to the other. All notices required hereunder shall be in writing and shall be deemed properly served if delivered in person or if sent by registered or certified mail, with postage prepaid and return receipt requested, to the addresses specified. All notices required hereunder shall be deemed received on the date of delivery, or attempted delivery, if delivered in person, or if mailed, on the date which is two (2) days after the date such notice is deposited in the mail.

34.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the parties.

34.3 Governing Law. This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the State of Illinois (excluding any conflict of laws rule or principle which might refer such interpretation to the laws of another jurisdiction).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**RECIPIENT: COUNTY OF LAKE**

Attest: \_\_\_\_\_

By: \_\_\_\_\_

MARTIN G. BUEHLER

Date: \_\_\_\_\_

Title: \_\_\_\_\_

COUNTY ENGINEER

**REGIONAL TRANSPORTATION AUTHORITY:**

Attest: \_\_\_\_\_

By: \_\_\_\_\_

STEPHEN E. SCHLICKMAN *CSM*

Date: \_\_\_\_\_

Title: \_\_\_\_\_

EXECUTIVE DIRECTOR

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Exhibit A  
Scope of Services for  
NF-2008-02

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**Applicant:** County of Lake

**RTA Project Number** NF-652-493-339

**Project Name:** Lake County Northwest Demonstration Project

**Project Description:**

Grant funds will be used to expand Lake County's dial-a-ride service during the weekday in Antioch, Avon, Grant and Lake Villa Townships. A portion of the service will be a flexible route connecting three Metra stations on the North Central Service Line and Milwaukee District - North Line. The primary market for the Northwest Demonstration Project will continue to be persons with disabilities and seniors with service available to the general public as well.

**Project Location:**

Lake County

**EXHIBIT B**  
**PROJECT BUDGET**  
for  
**NF-2008-02**

	<b>Budget Number</b>	<b>0</b>	<b>Date</b>	
<b>Applicant</b>	County of Lake			
<b>Total Project Budget</b>				<b>\$800,000.00</b>

RTA Project Number/ Title	NF-652-493-339	Lake County Northwest Demonstration Project		
	Project Budget	Inkind	Estimated Project Funds	
			Cash	Share
<b>RTA</b>	<b>\$400,000.00</b>	\$0.00	\$400,000.00	50.00%
<b>Local</b>	<b>\$400,000.00</b>	\$0.00	\$400,000.00	50.00%
<b>Other</b>	<b>\$0.00</b>	\$0.00	\$0.00	0.00%
<b>Total:</b>	<b>\$800,000.00</b>	<b>\$0.00</b>	<b>\$800,000.00</b>	<b>100.00%</b>

## EXHIBIT C

### CERTIFICATIONS AND ASSURANCES

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been complied to cover all grants and agreements that include Federal Transit Administration ("FTA"), Illinois Department of Transportation ("IDOT") and/or Regional Transportation Authority ("RTA") assistance programs. Twenty-Six (26) Categories of certifications and assurances are listed below by roman numerals I through XXVI. Category I applies to all Grantees. Category II applies to all applications exceeding \$100,000. Categories III through XXV will apply to and be required for some, but not all, Grantees and projects and will be indicated with an "X" as needed.

The RTA and the Grantee understand and agree that not every provision of these certifications and assurances will apply to every Grantee or every project for which the RTA provides Federal financial assistance through a grant agreement, cooperative agreement or contract. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of the FTA's enabling legislation currently in effect.

The Grantee also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all statutory and regulatory requirements that may apply to the Grantee or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA(14) for Federal Fiscal Year 2008 (the "Master Agreement") at the FTA website <http://www.fta.dot.gov/documents/14-Master.pdf>. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

Because the number of provisions that could flow down to subrecipients are so extensive, the FTA has removed the partial list of provisions pertaining to subrecipients formerly included within certifications and assurances for various specific programs to preclude a misunderstanding that those provisions listed fully encompass all Federal provisions that may be imposed on a subrecipient. As a result, the FTA and the RTA strongly recommends that each Grantee, that will be implementing projects through one or more subrecipients, secure sufficient documentation from each subrecipient to assure compliance, not only with these certifications and assurances, but also with the terms of the grant agreement, cooperative agreement or contract for the project, and the Master Agreement incorporated therein by reference. Each Grantee is ultimately responsible for compliance with the provisions of these certifications and assurances applicable to itself or its project irrespective of participation in the project by any subrecipient.

The Grantee agrees to comply with the applicable provisions of the following categories that have been selected by the RTA:

- I. Required of Each Grantee   X
- II. Lobbying   X
- III. Procurement Compliance   X
- IV. Protections for Public Transportation Providers
- V. Public Hearing
- VI. Acquisition of Rolling Stock
- VII. Acquisition of Capital Assets by Lease
- VIII. Bus Testing
- IX. Charter Service Agreement
- X. School Transportation Agreement
- XI. Demand Responsive Service
- XII. Alcohol Misuse and Prohibited Drug Use
- XIII. Interest and Other Financing Costs
- XIV. Intelligent Transportation Systems
- XV. Urbanized Area Formula Program
- XVI. Clean Fuels Grant Program
- XVII. Elderly Individuals and Individuals with Disabilities Formula & Pilot Programs
- XVIII. Nonurbanized Area Formula Program
- XIX. Job Access and Reverse Commute Formula Grant Program
- XX. New Freedom Program   X
- XXI. Alternative Transportation in Parks and Public Lands
- XXII. Tribal Transit Program
- XXIII. Infrastructure Finance Projects
- XXIV. Deposits of Federal Financial Assistance to State Infrastructure Banks
- XXV. Additional FTA Certifications & Assurances   X
- XXVI. IDOT Certifications & Assurances

The following signature pages (Grantee and Grantee's attorney) must be appropriately completed and signed where indicated by both Grantee and Grantee's attorney.

### CERTIFICATIONS AND ASSURANCES

Name of Grantee: County of Lake

Name of Authorized Representative: Martin G. Buehler

Relationship of Authorized Representative: County of Lake Engineer

BY SIGNING BELOW, on behalf of the Grantee, I declare that the Grantee has duly authorized me to make these certifications and assurances and bind the Grantee's compliance. Thus, the Grantee agrees to comply with all local, state and Federal statutes, regulations, executive orders, and requirements applicable to this grant or contract and projects funded by this grant or contract. The RTA intends that the certifications and assurances selected on the preceding page of these certification and assurances should apply, as provided, to each project for which the Grantee seeks now, or may later seek, RTA assistance during this fiscal year.

The Grantee affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, IDOT or RTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 et seq., as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 may apply to any certification, assurance or submission made to RTA. The criminal fraud provisions of 18 U.S.C. 1001 may apply to any certification, assurance, or submission made in connection with any program administered by the FTA, IDOT or RTA.

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 Grantee are true and correct.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name Martin G. Buehler

Authorized Representative of Grantee

**AFFIRMATION OF GRANTEE'S ATTORNEY**

Name of Grantee: County of Lake

As the undersigned Attorney for the above named Grantee, I hereby affirm to the Grantee that it has authority under state and local law to make and comply with these certifications and assurances as indicated on the first page of this certifications and assurances document. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Grantee.

I further affirm to the Grantee 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 the project. Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Grantee, the RTA and, if applicable, IDOT and the FTA.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

Name \_\_\_\_\_

Attorney for Grantee

Each Grantee that requests Federal financial assistance (except 49 U.S.C. 5312(b) assistance) and each Grantee with an active capital or formula project must provide an Affirmation of Grantee's Attorney pertaining to the Grantee's legal capacity. The Grantee may enter its signature in lieu of the Attorney's signature, provided the Grantee has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.



## CERTIFICATIONS AND ASSURANCES

### I. ASSURANCES REQUIRED FOR EACH GRANTEE

The RTA may not award any assistance or enter into any contract until the Grantee provides all certifications and assurances in this Category "I."

#### A. *Authority of Grantee and Its Representative*

The authorized representative of the Grantee and the Attorney who sign these certifications, assurances, and agreements affirm that both the Grantee and its authorized representative have adequate authority under applicable state and local law and regulations, and the Grantee's by-laws or internal rules to:

- (1) Execute and file the grant agreement, cooperative agreement or contract with the RTA on behalf of the Grantee; and
- (2) Execute and file the required certifications, assurances and agreements on behalf of the Grantee binding the Grantee.

#### B. *Standard Assurances*

The Grantee assures that it will comply with all applicable local, state and Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out any project supported by a grant agreement, cooperative agreement or contract awarded by the RTA. The Grantee agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement, cooperative agreement or contract issued for its project with the FTA, IDOT or the RTA. The Grantee recognizes that local, state and Federal laws, regulations, policies, and administrative practices may be modified from time to time and those modifications may affect project implementation. The Grantee understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Grantee or its project. The Grantee agrees that the most recent local, state and Federal requirements will apply to the project, unless FTA, IDOT or RTA issues a written determination otherwise.

#### C. *Intergovernmental Review Assurance*

To the extent applicable, the Grantee assures that each grant of Federal assistance that it receives from the RTA or contract that it enters into with the RTA has been submitted or will be submitted, as may be required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Grantee assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17:

D. *Nondiscrimination Assurance*

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Grantee assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) funded by Federal assistance and awarded by the RTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Grantee retains ownership or possession of the project property, whichever is longer, the Grantee assures that:

(1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and the Grantee understands that this assurance extends to its entire facility and to facilities operated in connection with the project;

(2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Grantee assures that it will submit the required information pertaining to its compliance with these requirements;

(3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project;

(4) Should it transfer real property, structures, or improvements financed with Federal assistance awarded by the RTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits;

(5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance; and

(6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

E. *Assurance of Nondiscrimination on the Basis of Disability*

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Grantee assures that, as a condition to the approval or extension of any Federal assistance awarded by the RTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, IDOT or RTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA, IDOT or RTA or any entity within U.S. DOT. The Grantee assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, et seq., and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq., and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

F. *U.S. Office of Management and Budget (OMB) Assurances*

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Grantee assures that, with respect to itself or its project, the Grantee:

(1) Has the legal authority to apply for and receive Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in the grant agreement, cooperative agreement or contract;

(2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the state and RTA, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;

(4) Will initiate and complete the work within the applicable project time periods following receipt of RTA approval;

(5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 et seq., relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 et seq. relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 201 et seq., relating to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 et seq., relating to nondiscrimination in the sale, rental, or financing of housing; and

(i) Any other nondiscrimination statute(s) that may apply to the project;

(6) *To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 et seq., which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Grantee assures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 et seq., and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:*

(a) The Grantee will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Grantee will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;

(c) The Grantee will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;

(d) Within a reasonable time before displacement, the Grantee will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Grantee will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will 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) In acquiring real property, the Grantee will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Grantee will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Grantee's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;

(h) The Grantee will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Grantee agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;

(7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 et seq., the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 et seq., and to the extent applicable, Fair Labor Standards Act, regarding labor standards for federally assisted projects;

(8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Grantee and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;

(9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;

(10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from the RTA;

(11) To the extent required by FTA, will record the Federal interest in the title of real property and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;

(12) To the extent applicable, will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;

(13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA, IDOT, or RTA;

(14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;

(e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and

(i) 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(b) and 303(c);

(j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and

(k) Provision of assistance to FTA, IDOT and RTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;

(15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit 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, cooperative agreement, or contract except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;

(16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 et seq., and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;

(17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 et seq., and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and

treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;

(18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 et seq., OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and

(19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, executive orders, regulations, and directives governing the Project, except to the extent that the FTA or RTA has expressly approved otherwise in writing.

## **II. LOBBYING CERTIFICATION**

A Grantee that executes a grant agreement, cooperative agreement or contract where Federal assistance exceeding \$100,000 is awarded, must provide the following certification.

A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Grantee's authorized representative certifies to the best of his or her knowledge and belief that for each grant agreement, cooperative agreement or contract funded by Federal assistance exceeding \$100,000:

(1) No Federal appropriated funds have been or will be paid by or on behalf of the Grantee to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant agreement, cooperative agreement or contract, the Grantee assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352; and

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

B. The Grantee understands that this certification is a material representation of fact upon which reliance is placed by the FTA, IDOT and RTA and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Grantee also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



### **III. PROCUREMENT COMPLIANCE**

In accordance with 49 CFR 18.36(g)(3)(ii), each Grantee that is a state or local government that is seeking Federal assistance to acquire property or services in support of its project is requested to provide the following certification. The RTA also requests other Grantees to provide the following certification. A Grantee that requests RTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of local or Federal assistance for the project, if the RTA determines that its procurement practices and procurement system are incapable of compliance with local, state and Federal laws, regulations and directives governing procurements financed with RTA or FTA assistance.

The Grantee certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent the RTA has expressly approved otherwise in writing.

### **IV. PROTECTIONS FOR PRIVATE TRANSPORTATION PROVIDERS**

A Grantee that is a state or local government seeking Federal assistance authorized by 49 U.S.C. chapter 53 to acquire the property or an interest in the property of a private provider of public transportation or to operate public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing private provider of public transportation must provide the following certification.

As required by 49 U.S.C. 5323(a)(1), the Grantee certifies that before it acquires the property or an interest in the property of a private provider of public transportation or operates public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing public transportation company, it has or will have:

- A. Determined that the assistance 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 law to the company for any franchise or property acquired.

### **V. PUBLIC HEARING**

A Grantee seeking Federal assistance authorized by 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification.

As required by 49 U.S.C. 5323(b), the Grantee certifies that it has, or before receiving the grant, it will have:

- A. Provided an adequate opportunity for public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the

proposed project published in a newspaper of general circulation in the geographic area to be served;

- B. Held a public hearing on the project if the project affects significant economic, social, or environmental interests after providing adequate notice as described above;
- C. Considered the economic, social, and environmental effects of the proposed project; and
- D. Determined that the proposed project is consistent with official plans for developing the urban area.

## **VI. ACQUISITION OF ROLLING STOCK**

A Grantee seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any rolling stock for use in revenue service is required to provide the following certification.

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Grantee certifies that it will comply with the requirements of 49 CFR part 663 as modified by amendments authorized by section 3023(k) of SAFETEA-LU when procuring revenue service rolling stock. Among other things, the Grantee agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

## **VII. ACQUISITION OF CAPITAL ASSETS BY LEASE**

A Grantee that intends to use local, state or Federal assistance to acquire capital assets by lease is required to provide the following certifications.

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, if the Grantee acquires any capital asset by lease financed with local, state or Federal assistance authorized for 49 U.S.C. chapter 53, the Grantee certifies as follows:

- (1) It will not use local, state or Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and it will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
- (2) It will not enter into a capital lease for which the RTA or the FTA can provide only incremental local, state or federal assistance unless it has adequate financial resources to meet its future obligations under the lease if local, state or Federal assistance is not available for capital projects in the subsequent years.

## VIII. BUS TESTING

A Grantee that receives Federal assistance appropriated or made available for 49 U.S.C. chapter 53 to acquire any new bus model or any bus model with a new major change in configuration or components is required to provide the following certification.

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Grantee certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

- A. Will have been tested at the FTA's bus testing facility; and
- B. Will have received a copy of the test report prepared on the bus model.

## IX. CHARTER SERVICE AGREEMENT

A Grantee receiving Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310, 5316 or 5317), or under 23 U.S.C. 133 or 142 to acquire or operate any public transportation equipment or facilities is required to enter into the following Charter Service Agreement.

A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," at 49 CFR part 604.7, the Grantee agrees that it and each subrecipient and third party contractor at any tier will provide charter service that uses equipment or facilities acquired with federal assistance authorized under the Federal transit laws (except 49 U.S.C. 5310, 5316 or 5317), or under 23 U.S.C. 133 or 142 only in compliance with those laws and FTA regulations, "Charter Service", 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

B. The Grantee understands that:

- (1) The requirements of 49 CFR part 604 will apply to any charter service that it or its subrecipients or third party contractors provide;
  - (2) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement;
- and
- (3) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

## X. SCHOOL TRANSPORTATION AGREEMENT

A Grantee receiving federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 to acquire or operate public transportation facilities and equipment is required to enter into the following School Transportation Agreement.

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Grantee agrees that it and each subrecipient, lessee, or third party contractor at any tier may engage in school transportation operations in competition with private school transportation operators that uses equipment or facilities acquired with Federal assistance authorized under the

Federal transit laws or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "School Bus Operations", 49 CFR part 605, the terms and conditions of which are incorporated herein by reference.

B. The Grantee understands and agrees that:

(1) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients, lessees, or third party contractors provide,

(2) The definitions of 49 CFR part 605 will apply to this school transportation agreement; and

(3) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further federal assistance for transportation.

## **XI. DEMAND RESPONSIVE SERVICE**

A Grantee that operates demand responsive service and receives direct Federal assistance authorized for 49 U.S.C. chapter 53 to acquire non-rail public transportation vehicles is required to provide the following certification.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Grantee certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Viewed in its entirety, the Grantee's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

## **XII. ALCOHOL MISUSE AND PROHIBITED DRUG USE**

The Grantee is required to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations.

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Grantee certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

### **XIII. INTEREST AND OTHER FINANCING COSTS**

A Grantee that intends to use Federal assistance for reimbursement of interest or other financing costs incurred for its capital projects financed with Federal assistance under the Urbanized Area Formula Program, the Capital Investment Program, or the Alternative Transportation in Parks and Public Lands Program is required to provide the following certification.

As required by 49 U.S.C. 5307(g)(3), 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), 5309(i)(2)(C), and 5320(h)(2)(C), the Grantee certifies that it will not seek reimbursement for interest and other financing costs unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent the FTA may require.

### **XIV. INTELLIGENT TRANSPORTATION SYSTEMS**

A Grantee that intends to use FTA assistance for an Intelligent Transportation Systems (ITS) project, defined as 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," must provide the following assurance.

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."

A. As provided in SAFETEA-LU Section 5307(c), 23 U.S.C. 512, "the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a)." To facilitate compliance with SAFETEA-LU Section 5307(c), 23 U.S.C. 512, the Grantee assures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 Fed. Reg. 1455 et seq., January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, United States Code, except to the extent that the RTA or FTA expressly determines otherwise in writing.

B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, United States Code, the Grantee assures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the region.

### **XV. URBANIZED AREA FORMULA PROGRAM**

Each Grantee receiving Urbanized Area Formula Program assistance authorized under 49 U.S.C. 5307 is required to provide the following certifications on behalf of itself and any subrecipients

participating in its projects. Unless the RTA or FTA determines otherwise in writing, the Grantee is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Grantee is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Grantee has made to the RTA. If, however a "Designated Recipient" as defined at 49 U.S.C. 5307(a)(2)(A) enters into a Supplemental Agreement with the FTA and a Prospective Grantee, that Prospective Grantee is recognized as the Grantee for Urbanized Area Formula Program assistance and must provide the following certifications.

Each Grantee is required by 49 U.S.C. 5307(d)( I )(J) to expend at least one (1) percent of its Urbanized Area Formula Program assistance for public transportation security projects, unless the Grantee has certified to RTA that such expenditures are not necessary. Information about the Grantee's intentions will be recorded in the "Security" tab page of the TEAM-Web "Project Information" window when the Grantee enters its Urbanized Area Formula Program application in TEAM-Web.

The RTA may not award Urbanized Area Formula Program assistance to any Grantee that is required by 49 U.S.C. 5307(d)(1)(K) to expend one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements unless that Grantee's quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to the RTA and includes the requisite list or the Grantee attaches in TEAM or includes in its quarterly report information sufficient to demonstrate that the Designated Recipients in its area together have expended one (1) percent of the amount of Urbanized Area Program assistance made available to them for transit enhancement projects.

As required by 49 U.S.C. 5307(d)(1), the Grantee certifies as follows:

(a) In compliance with 49 U.S.C. 5307(d)(1)(A), the Grantee has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;

(b) In compliance with 49 U.S.C. 5307(d)(1)(B), the Grantee has or will have satisfactory continuing control over the use of Project equipment and facilities;

(c) In compliance with 49 U.S.C. 5307(d)(1)(C), the Grantee will adequately maintain the Project equipment and facilities;

(d) In compliance with 49 U.S.C. 5307(d)(1)(D), the Grantee will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 et seq. or 42 U.S.C. 1395 et seq.), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, not more than fifty (50) percent of the peak hour fare;

(e) In compliance with 49 U.S.C. 5307(d)(1)(E), the Grantee, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5307: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

(f) In compliance with 49 U.S.C. 5307(d)(1)(F), the Grantee has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Grantee: (1) has made available, or will make available, to the public information on the amounts available for the Urbanized Area Formula Program, 49 U.S.C. 5307, and the program of projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, a proposed program of projects for activities to be financed; (3) has published or will publish 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 performance of the Grantee; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; (5) has ensured or will ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (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) In compliance with 49 U.S.C. 5307(d)(1)(G), the Grantee has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(h) In compliance with 49 U.S.C. 5307(d)(1)(H), the Grantee will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

(i) In compliance with 49 U.S.C. 5307(d)(1)(I), the Grantee has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

(j) In compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Grantee will spend at least one (1) percent of its funds authorized by 49 U.S.C. § 5307 for public transportation security projects, unless the Grantee has certified to the RTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system,

emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

(k) In compliance with 49 U.S.C. 5307(d)(1)(K), if the Grantee is a Designated Recipient serving an urbanized area with a population of at least 200,000, (1) the Grantee certifies either that it has expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the Urbanized Area Formula Assistance it receives this fiscal year, or that at least one Designated Recipient in its urbanized area has certified or will certify that the Designated Recipients within that urbanized area together have expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the total amounts the Designated Recipients receive each fiscal year under 49 U.S.C. 5307, and (2) either the Grantee has listed or will list the transit enhancement projects it has carried out with those funds, or at least one Designated Recipient in the Grantee's urbanized area has listed or will list the transit enhancement projects carried out with funds authorized under 49 U.S.C. 5307. If the Designated Recipient's quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of transit enhancement projects the Designated Recipients in its urbanized area have implemented during that preceding fiscal year using those funds, the information in that quarterly report will fulfill the requirements of 49 U.S.C. 5307(d)(1)(K)(ii), and thus that quarterly report will be incorporated by reference and made part of the Designated Recipient's and Grantee's certifications and assurances.

## **XVI. CLEAN FUELS GRANT PROGRAM**

Each Grantee receiving Clean Fuels Grant Program assistance authorized under 49 U.S.C. 5308 is required to provide the following certifications on behalf of itself and its subrecipients. Unless the RTA determines otherwise in writing, the Grantee is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Grantee is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Grantee has made to the RTA.

As required by 49 U.S.C. 5308(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Clean Fuels Grant Program assistance, and 49 U.S.C. 5307(d)(1), the designated recipient or the recipient serving as the Grantee on behalf of the designated recipient, or the state or state organization serving as the Grantee on behalf of the state, certifies as follows:

- A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Grantee has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
- B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Grantee has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Grantee will adequately maintain the



project equipment and facilities;

- D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Grantee will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5308, not more than fifty (50) percent of the peak hour fare;
- E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Grantee, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5308: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Grantee has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Grantee: (1) has made available, or will make available, to the public information on the amounts available for the Clean Fuels Grant Program, 49 U.S.C. 5308, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of the 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 the performance of the Grantee; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;
- G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Grantee has or will have available and will provide the amount of funds required by 49 U.S.C. 5308(d)(2) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Grantee will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

- I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Grantee has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation; and
- J. The Grantee certifies that it will use only clean fuels to operate any vehicles financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308, and in particular that it will use only ultra-low sulfur diesel fuel to operate "clean diesel" buses financed with Federal assistance provided for the Clean Fuels Grant Program, 49 U.S.C. 5308.

**XVII. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES  
FORMULA PROGRAM AND PILOT PROGRAM**

This Category does not apply to this Agreement.

**XVIII. NONURBANIZED AREA FORMULA PROGRAM**

This Category does not apply to this Agreement.

**XIX. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM**

Each Grantee receiving Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Grantee itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Grantee is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Grantee has made to the RTA.

As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Grantee for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its subrecipients, if any, as follows:

- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Grantee has or will have the legal, financial, and technical capacity to carry out its proposed project(s), including safety and security aspects;
- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Grantee has or will have satisfactory continuing control over the use of project equipment and facilities;
- (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Grantee will adequately maintain the project equipment and facilities;

- (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Grantee will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Grantee, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316: (1) will use competitive procurement (as defined or approved by the U.S. DOT Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (6) In compliance with 49 U.S.C. 5307(d)(1)(G), the Grantee has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- (7) In compliance with 49 U.S.C. 5307(d)(1)(H), the Grantee will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and
- (8) In compliance with 49 U.S.C. 5307(d)(1)(I), the Grantee has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

## **XX. NEW FREEDOM PROGRAM**

Each Grantee that receives New Freedom Program assistance authorized under 49 U.S.C. 5317 must provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Grantee itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Grantee is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Grantee has made to the RTA.

As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310

applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Grantee for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its subrecipients, if any, as follows:

- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Grantee has or will have the legal, financial, and technical capacity to carry out its proposed projects, including safety and security aspects;
- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Grantee has or will have satisfactory continuing control over the use of project equipment and facilities;
- (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Grantee will adequately maintain the project equipment and facilities;
- (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Grantee, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5317: (1) will use competitive procurement (as defined or approved by the U.S. DOT Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(G), the Grantee has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
- (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Grantee will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

## **XXI. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS PROGRAM**

This Category does not apply to this Agreement.

## XXII. TRIBAL TRANSIT PROGRAM

This Category does not apply to this Agreement.

## XXIII. INFRASTRUCTURE FINANCE PROJECTS

Each Grantee that receives Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, is required to provide the following certifications.

- A. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5307 applicable to Grantees seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5307(d)(1), the Grantee certifies as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Grantee has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
  - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Grantee has or will have satisfactory continuing control over the use of project equipment and facilities;
  - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Grantee will adequately maintain the project equipment and facilities;
  - (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Grantee will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 23 U.S.C. chapter 6 not more than fifty (50) percent of the peak hour fare;
  - (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Grantee, in carrying out a procurement financed with Federal assistance authorized under 23 U.S.C. chapter 6: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
  - (6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Grantee has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for Infrastructure Finance assistance, 23 U.S.C. chapter 6, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of 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 the performance of the Grantee; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

- (7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Grantee has or will have available and will provide the amount of funds required for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- (8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Grantee will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- (9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Grantee has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;
- (10) To the extent that the Grantee will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Grantee will spend at least one (1) percent of those funds authorized under 49 U.S.C. § 5307 for public transportation security projects (this includes only capital projects in the case of a Grantee serving an urbanized area with a population of 200,000 or more), unless the Grantee has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and
- (11) To the extent that the Grantee will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5309(d)(1)(K): (1) an Grantee that serves an urbanized area with a population of at least 200,000 will expend not less than one (1) percent of the amount it receives each fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if it has received transit enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of the projects it has implemented during that fiscal year using those funds, and that report is incorporated by

reference and made part of its certifications and assurances.

- B. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5309 applicable to Grantees seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Grantee certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with the project unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent the RTA or the FTA may require.

#### **XXIV. DEPOSITS OF FEDERAL FINANCIAL ASSISTANCE TO STATE INFRASTRUCTURE BANKS**

This Category does not apply to this Agreement.

#### **XXV. ADDITIONAL FTA CERTIFICATIONS AND ASSURANCES**

##### *Section 25-1 Definitions*

As used in Sections XXV of these certifications and assurances:

- A. "Agreement" means the agreement between the RTA and Grantee to which these certifications and assurances are appended as an exhibit.
- B. "Government" means the government of the United States of America, the State of Illinois and the RTA.
- C. "Project" means the studies, demonstrations, and/or development projects described in the Grantee's approved application, for which grant funds are intended to be provided pursuant to this Agreement.
- D. "Project Cost" means costs, eligible for reimbursement or payment under the Agreement, incurred by the Grantee and/or its contractor(s) in performing the Project.

##### *Section 25-2. Project Implementation*

#### **A. Grantee's Responsibility to Extend Federal Requirements to Other Entities.**

(1) Entities Affected. Only the entities that are signatories to the Agreement are parties to the Agreement. To achieve compliance with certain Federal laws, regulations, or directives, however, other Project participants, such as subrecipients and third party contractors, will necessarily be affected. Accordingly, the Grantee agrees to take appropriate measures necessary to ensure all Project participants comply with applicable Federal requirements affecting their performance.

(2) Documents Affected. The applicability provisions of Federal statutes, regulations, and directives establishing each Federal requirement determine the extent to which that requirement

affects a Project participant. Accordingly, the Grantee agrees to include adequate provisions to ensure that each Project participant complies with those Federal requirements. In addition, the Grantee also agrees to require its third party contractors and subrecipients to include adequate provisions to ensure compliance with applicable Federal requirements in each lower tier subcontract and subagreement financed in whole or in part with financial assistance provided by the FTA, through the RTA, under the Agreement. Additional requirements include the following:

(a) Third Party Contracts. Because Project activities performed by a third party contractor must comply with Federal requirements, the Grantee agrees to include appropriate clauses in each third party contract stating the third party contractor's responsibilities under Federal law, regulation, or directive, including any necessary provisions requiring the third party contractor to extend applicable requirements to its subcontractors to the lowest tier necessary. When the third party contract requires the third party contractor to undertake responsibilities for the Project usually performed by the Grantee, the requirements applicable to the Grantee imposed by the Master Agreement and the Agreement for the Project must be included in that third party contract and extended throughout each tier to the extent appropriate. Additional guidance pertaining to third party contracting is contained in the FTA's "Best Practices Procurement Manual." FTA cautions, however, that its "Best Practices Procurement Manual" focuses mainly on third party procurement processes and may omit certain other Federal requirements applicable to the work to be performed.

(b) Subagreements. Because Project activities performed by a subrecipient must be carried out in accordance with Federal requirements, the Grantee agrees to include appropriate clauses in each subagreement stating the subrecipient's responsibilities under Federal law, regulation, or directive, including any necessary provisions requiring the subrecipient to impose applicable Federal requirements on other Project participants to the lowest tier necessary. When the subagreement requires the subrecipient to undertake primary responsibilities for the Project usually performed by the Grantee, the requirements applicable to the Grantee imposed by the Agreement for the Project must be included in that subagreement and extended throughout each tier to the extent appropriate.

B. No Government Obligations to Third Parties. The Grantee agrees that, absent the Government's express written consent, the Government shall not be subject to any obligations or liabilities to any subrecipient, third party contractor, or other person not a party to the Agreement in connection with the performance of the Project. Notwithstanding that the Government may have concurred in or approved any solicitation, subagreement, or third party contract, the Government has no obligations or liabilities to any party, including any subrecipient or third party contractor.

### *Section 25-3. Ethics*

A. Code of Ethics. The Grantee agrees to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, board members, or agents engaged in the award or administration of third party contracts or subagreements supported by Federal assistance. The code or standards of conduct must provide that the Grantee's officers,



employees, board members, or agents may not solicit or accept gratuities, favors, or anything of monetary value from any present or potential third party contractor or subrecipient or agent. The Grantee may set minimum rules for insubstantial financial interests or gifts of unsolicited items of nominal intrinsic value. The code or standards of conduct must prohibit the Grantee's officers, employees, board members, or agents from using their positions in a manner that creates a real or apparent personal or organizational conflict of interest or personal gain. The code or standards of conduct must include penalties, sanctions, or other disciplinary actions for violations by the Grantee's officers, employees, board members, or agents, or by the Grantee's third party contractors or subrecipients or their agents as permitted by State or local law or regulations.

(1) Personal Conflicts of Interest. The Grantee's code or standards of conduct shall prohibit the Grantee's employees, officers, board members, or agents from participating in the selection, award, or administration of any third party contract or subagreement supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family; partner; or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award.

(2) Organizational Conflicts of Interest. The Grantee's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or subrecipient or impair its objectivity in performing the contract work.

B. Debarment and Suspension. The Grantee agrees to comply, and assures the compliance of each third party contractor and subrecipient at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," within 49 C.F.R. Part 29.

#### *Section 25-4. Accounting Records*

A. Project Accounts. The Grantee agrees to establish and maintain for the Project either a separate set of accounts, or separate accounts within the framework of an established accounting system, that can be identified with the Project, consistent with applicable Federal regulations and other requirements that the RTA or the FTA may impose. The Grantee agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project shall be clearly identified, readily accessible and available to the RTA or the FTA upon its request, and, to the extent feasible, kept separate from documents not related to the Project.

B. Funds Received or Made Available for the Project. The Grantee agrees to deposit in a financial institution all advance Project payments it receives from the RTA or the Federal Government and record in the Project account all amounts provided by the RTA or by the Federal Government in support of the Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project (Project funds) consistent with applicable Federal

regulations and other requirements the RTA or the FTA may impose. Use of financial institutions owned at least 50 percent by minority group members is encouraged.

C. Documentation of Project Costs and Program Income. The Grantee agrees to support all costs charged to the Project, including any approved services contributed by the Grantee or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Grantee also agrees to maintain accurate records of all program income derived from Project implementation, except certain income determined by FTA to be exempt from the general Federal program income requirements.

*Section 25-5. Record Retention and Access*

A. Record Retention. The Grantee agrees to maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the Project as the Government may require during the course of the Project and for three years thereafter.

B. Access to Records of Grantees and Subrecipients. Upon request, the Grantee agrees to permit, and require its subrecipients to permit, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, the RTA, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its subrecipients pertaining to the Project.

*Section 25-6. Civil Rights*

A. Equal Employment Opportunity. The Grantee agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with all equal employment opportunity (EEO) requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements FTA may issue. Those EEO requirements include, but are not limited to, the following:

(1) General Requirements. The Grantee agrees as follows:

(a) The Grantee agrees that it will not discriminate against any employee or Grantee for employment because of race, color, creed, sex, disability, age, or national origin. The Grantee agrees to take affirmative action to ensure that Grantees are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, 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 Grantee also agrees to comply with any implementing requirements FTA may issue.

(b) If the Grantee is required to submit and obtain Federal Government approval of its EEO program, that EEO program approved by the Federal Government is incorporated by reference and made part of the Agreement. Failure by the Grantee to carry out the terms of that EEO program shall be treated as a violation of the Agreement. Upon notification to the Grantee

of its failure to carry out the approved EEO program, the RTA or the Federal Government may impose such remedies as it considers appropriate, including termination of Federal financial assistance in accordance with the Agreement, or other measures that may affect the Grantee's eligibility to obtain future Federal financial assistance for transportation Projects.

**B. Disadvantaged Business Enterprise.** To the extent required by Federal law, regulation, or directive, the Grantee agrees to take the following measures to facilitate participation by disadvantaged business enterprises (DBE) in the Project:

(1) The Grantee agrees and assures that it will comply with TEA-21 § 1101(b), 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Grantee agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from U.S. DOT or in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Grantee agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26 and approved by U.S. DOT, the Grantee's DBE program is incorporated by reference and made part of the Agreement. The Grantee agrees that implementation of this DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the Agreement. Upon notification by U.S. DOT to the Grantee of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*

**C. Access Requirements for Persons with Disabilities.** The Grantee agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

(1) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(2) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(3) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(4) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(5) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

(6) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(7) Any implementing requirements FTA may issue.

D. Access to Services for Persons with Limited English Proficiency. The Grantee agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 *et seq.*, January 22, 2001.

E. Environmental Justice. The Grantee agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.

F. Other Nondiscrimination Statutes. The Grantee agrees to comply with all applicable requirements of any other Federal laws and regulations prohibiting discrimination that may apply to the Project.

#### *Section 25-7. Procurement*

A. Clean Air and Clean Water. The Grantee agrees to include in each third party contract, subgrant, and subagreement exceeding \$100,000 adequate provisions to ensure that Project participants report the use of facilities placed or likely to be placed on U.S. Environmental Protection Agency (U.S. EPA) "List of Violating Facilities," that it will not use violating facilities, report violations to FTA and the Regional U.S. EPA Office, and that it will comply with the inspection and other applicable requirements of:

(1) Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401, 7671q; and

(2) Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and any other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1377.

B. Access to Third Party Contract Records. The Grantee agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide to the RTA, the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party records as requested to conduct audits and inspections related to any third party contract that has not been awarded on the basis of competitive bidding for a capital or improvement Project, as required by 49 U.S.C. § 5325(a). The Grantee further agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide sufficient access to third party procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by the FTA or the RTA.

C. Electronic and Information Technology. When using Federal financial assistance to procure reports or information to be delivered to the Grantee for distribution to FTA, among others, the Grantee agrees to include in its specifications a requirement that the reports or information will be prepared using electronic or information technology capable of assuring that, when provided to the RTA or the FTA, the reports or information will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194, and any amendments thereto.

*Section 25-8. Patent Rights.*

A. General. If any invention, improvement, or discovery by the Grantee or any of its third party contractors or subrecipients at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Grantee agrees to notify the RTA immediately and provide a detailed report in a format satisfactory to the RTA.

B. Federal Rights. The Grantee agrees that its rights and responsibilities, and those of each third party contractor and each subrecipient at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Grantee agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that third party contract or subcontract as specified in 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 (implementing 35 U.S.C. §§ 200 *et seq.*), irrespective of the status of the Grantee, subrecipient, or third party contractor at any tier of the Project (*i.e.*, a large business, small business, State government or State instrumentality, local government, nonprofit organization, institution of higher education, individual, *etc.*)

*Section 25-9. Rights in Data and Copyrights.*

A. Definition. The term "subject data," as used in this Section 25-9 means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Agreement. 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. "Subject data" does not include financial reports, cost analyses, or similar information used for Project administration.

B. Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Agreement:

(1) Except for its own internal use, the Grantee may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Grantee authorize others to do so without the written consent of the Federal Government, until such time as the Federal

Government may have either released or approved the release of such data to the public.

(2) The restriction on publication of Subsection 25-9.b(1) of these Certifications and Assurances, however, does not apply to an agreement with an institution of higher learning.

C. Federal Rights in Data and Copyrights. The Grantee agrees to provide to the Federal Government a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in Subsections 25-9.C(1) and 25-9.C(2) of these Certifications & Assurances. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

(1) Any subject data developed under the Agreement, or under a third party contract or subagreement financed by the Agreement, whether or not a copyright has been obtained; and

(2) Any rights of copyright to which a Grantee, subrecipient, or a third party contractor purchases ownership with Federal assistance.

D. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies (Planning) Projects. In general, FTA's purpose in providing financial assistance for a special studies (planning), research, development, or demonstration Project is to increase transportation knowledge, rather than limit the benefits of the Project to participants in the Project. Therefore, unless FTA determines otherwise, the Grantee of financial assistance to support a research, development, demonstration, or a special studies (planning) Project agrees that, in addition to the rights in data and copyrights of Subsection 25-9.c of these Certifications & Assurances, FTA may make available to any FTA recipient, subrecipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 25-9.a of these Certifications & Assurances and shall be delivered as the Federal Government may direct. This Subsection 25.9.d of these Certifications & Assurances, however, does not apply to adaptations of automatic data processing equipment or programs for the Grantee's use when the costs thereof are financed with Federal funds for capital Projects.

E. Hold Harmless. Except as prohibited or otherwise limited by State law, upon request by the Federal Government, the Grantee agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Grantee shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

F. Restrictions on Access to Patent Rights. Nothing in this Section 25-7 pertaining to rights in data shall imply a license to the Federal Government under any patent or be construed to affect

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

G. Data Developed Without Federal Funding or Support. In connection with the Project, the Grantee may find it necessary to provide data developed without any Federal funding or support to the Federal Government. The requirements of Subsections 25-7.B, 25-7.C and 25-7.D of these certifications and assurances do not apply to data developed without Federal funding or support, even though that data may have been used in connection with the Project. Nevertheless, the Grantee understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

H. Statutory Requirements to Release Data. To the extent required by U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," at 49 C.F.R. § 19.36(d), or by subsequent Federal laws or regulations, the Grantee understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the provisions of the Freedom of Information Act (or another Federal statute providing access to such records).

#### *Section 25-10. Employee Protection*

A. Activities Not Involving Construction. The Grantee agrees to comply, and assures the compliance of each third party contractor and each subrecipient 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 the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

#### *Section 25-11. Environmental Requirements*

The Grantee recognizes that many Federal and state laws imposing environmental and resource conservation requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321-4335; the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671q and scattered sections of 29 U.S.C.; the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1377; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901- 6992k; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601-9675. The Grantee also recognizes that U.S. EPA, FHWA and other Federal agencies have issued, and in the future are expected to issue, regulations, guidelines, standards, orders, directives, or other requirements that may affect the Project. Thus, the Grantee agrees to comply, and assures the compliance of each subrecipient and each third party contractor, with any such Federal requirements as the Federal Government may now or in the future promulgate. Listed below are environmental requirements of particular concern to FTA and the Grantee. The Grantee agrees that those laws and regulations may not constitute the Grantee's entire obligation

to meet all Federal environmental and resource conservation requirements.

A. Environmental Protection. The Grantee agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321-4335; Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations imposing requirements for compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500-1508; joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

B. Air Quality. The Grantee agrees to comply with all applicable regulations, standards, orders, and requirements implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671q. In addition:

(1) The Grantee agrees to comply with the applicable requirements of the U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. To support the requisite air quality conformity finding for the Project, the Grantee agrees to implement each air quality mitigation or control measure incorporated in the Project. The Grantee further agrees that any Project identified in an applicable State Implementation Plan as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the State Implementation Plan.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to transit operators, particularly operators of large transit bus fleets. Accordingly, the Grantee agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Grantee agrees to comply with the notification of violating facility requirements of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

C. Clean Water. The Grantee agrees to comply with all applicable regulations, standards, or orders issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1377. In addition:

(1) The Grantee agrees to protect underground sources of drinking water as required by the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f-300j-6.

(2) The Grantee agrees to comply with the notification of violating facility requirements of



Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

D. Historic Preservation. The Grantee agrees to encourage and compliance with the Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a-469c, as follows:

(1) In accordance with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, the Grantee agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify the RTA or the FTA of those properties that are affected.

(2) The Grantee agrees to comply with all Federal requirements to avoid or mitigate adverse effects on those historic properties.

E. Mitigation of Adverse Environmental Effects. Should the proposed Project cause or result in adverse environmental effects, the Grantee agrees to take all reasonable measures to minimize the impact of those adverse effects, as required by 49 U.S.C. § 5324(b), and other applicable Federal laws and regulations, including joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622. The Grantee agrees to comply with all environmental mitigation measures identified as commitments in applicable environmental documents, such as environmental assessments, environmental impact statements, memoranda of agreement, and other documents required by 49 U.S.C. § 303, and with any conditions imposed by the Federal Government in a finding of no significant impact or record of decision. The Grantee agrees that those mitigation measures are incorporated by reference and made part of the Agreement. The Grantee also agrees that any deferred mitigation measures will be incorporated by reference and made part of the Agreement as soon as an agreement with the Federal Government is reached. The Grantee understands and agrees that those mitigation measures that have been agreed upon may not be modified or withdrawn without the express written approval of the Federal Government.

#### *Section 25-12. Substance Abuse.*

The Grantee agrees to comply with the following Federal substance abuse regulations:

a. Drug-Free Workplace. U.S.DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 49 C.F.R. Part 32, implementing the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq.*

b. Alcohol Misuse and Prohibited Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

*Section 25-13. Seat Belt Use*

In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," 23 U.S.C. § 402 note, the Grantee is encouraged to adopt on-the-job seat belt use policies and programs for its employees that operate company-owned, rented, or personally-operated vehicles and include this provision in third party contracts and subcontracts, and subagreements financed with Federal assistance awarded for the Project.

*Section 25-14. Special Provision for Urbanized Area Formula Projects.*

A. Reporting Requirements. For each fiscal year, the Grantee agrees to conform, and assures that any transit operator to which the Grantee provides funds authorized by 49 U.S.C. 5307 will conform, to the reporting system and the uniform system of accounts and records required by 49 U.S.C. § 5335(a) for FTA's national transit database and FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. Part 630.

**XXVI. IDOT CERTIFICATIONS AND ASSURANCES**

*Section 26-1. Procurement*

- A. Contracts – The RTA reserves the right to approve all contracts for goods, property, and services that exceed \$10,000 before the Grantee executes or obligates itself to these contracts. Any of these contracts or their subcontracts shall contain and comply with all of the contract clauses pursuant to FTA Circular 4220.1E and 49 CFR Parts 18.36, 19.40-19.48. The Grantee shall follow state and federal law and procedures (and local policies not inconsistent with them) when awarding and administering contracts. The Grantee agrees to give each contract full opportunity for free, open, and competitive procurement as state law requires.
- B. Exclusionary or Discriminatory Specifications - Apart from inconsistent requirements that federal and state law impose, the Grantee and its contractors will agree that it will not use federal or state funds to support procurement utilizing exclusionary or discriminatory specifications and will comply with 49 U.S.C. Section 5323(h)(2).
- C. Buy America - Each third-party contract (valued at more than \$100,000 for Construction and Acquisition of Goods or Rolling Stock), which uses FTA assistance must conform with 49 U.S.C. Section 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR Part 661. The Grantee will include the applicable Buy America Certifications and will incorporate its provisions as a part of every relevant third-party contract.
- D. Geographic Restrictions - The Grantee and its contractors agree to refrain from using state or local geographic preferences, except for those which federal statutes expressly mandate or encourage and those that the RTA, IDOT and the FTA permit.
- E. Third-Party Disputes or Breaches - The Grantee agrees to pursue all legal rights available to it when enforcing or defending any third-party contract. The RTA, IDOT and the FTA reserve the right to concur in any compromise or settlement of any third-party contract claim involving the Grantee. The Grantee will notify the RTA, IDOT and the FTA of any current or prospective major dispute concerning any third-party contract. If the Grantee

seeks to name the Government as a litigant, the Grantee agrees to inform the RTA, IDOT and the FTA beforehand. The Government retains a right to a proportionate share of any proceeds derived from any third-party recovery. Unless the Government permits otherwise, the Grantee will credit the Project Account with any recovered liquidated damages. Nothing in here shall waive or intend to waive IDOT or the FTA's immunity to suit.

#### *Section 26-2. Ethics*

**Bribery** - Non-governmental Grantees and third-party contractors shall certify that they have not been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or local government. They also certify that they have not admitted guilt of such conduct which is a matter of record, nor do they have an official, agent, or employee who has committed bribery or attempted bribery on the firm's behalf under the direction or authorization of one of the Grantee's responsible officials. They also certify that they have not been barred from contracting with a State or local governmental unit as a result of a violation of Section 33E-3 or 33E-4 of the Illinois Criminal Code.

#### *Section 26-3. Indemnification and Insurance*

The Grantee agrees to save harmless and indemnify the Government, and its officials, employees, and agents, from any and all losses, expenses, damages (including loss of use), demands, suits, and claims and shall defend any suit or action, brought at law or in equity, based on any alleged injury (including death) or damage arising from actions or inactions of the Grantee and the Grantee's employees, officers, agents, and contractors (and their subcontractors), and shall pay all damages, judgments, costs, fees and expenses, including attorney's fees, incurred by the Government and its officials, employees, and agents concerning this Project.

The Grantee agrees that it will maintain or cause to be maintained for the Project's duration, these self-insurance or insurance policies to protect the Grantee from any property damage or bodily injury claims, including death, which may arise from or regard the operations, actions, and/or inactions hereunder by the Grantee, or by anyone that the Grantee directly or indirectly employed or had associated. The Grantee shall also furnish the RTA with certificate(s) evidencing all such required insurance coverage, with the Government named as an additional insured and protected party, where appropriate. The Grantee's cost for this insurance shall not be an item of eligible Project Cost.

#### *Section 26-4. Independence of Grantee*

The Grantee or any of its employees, agents, contractors, or subcontractors shall never be considered agents or employees of the RTA, IDOT, the FTA, the US DOT, or State of Illinois. The Grantee also agrees that none of its employees, agents, contractors, or subcontractors will hold themselves out as, or claim to be, the Government's agents, officers, or employees and will not by reason of any relationship with the Grant make any claim or demand to, or apply for, any right or privilege applicable to an agent, officer or employee of the Government, including but not limited to, rights and privileges concerning workmen's compensation and occupational diseases coverage, unemployment compensation benefits, Social Security coverage, or retirement membership or credit.

*Section 26-5. Civil Rights*

A. Federal Equal Employment Opportunity - The Grantee agrees to include the following requirements, which apply to this Project, in each contract and subcontract financed wholly or partly with the FTA's assistance:

1. General Requirements: The Grantee agrees as follows:

a. Discrimination Prohibited - Under 42 U.S.C. Section 2000e and 49 U.S.C. Section 5332, the Grantee agrees to comply with applicable Federal statutes, executive orders, regulations, and Federal policies, including the U.S. Department of Labor regulations entitled, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Part 60 *et seq.*, (which implement E.O. No. 11246, "Equal Employment Opportunity," as amended by E.O. No. 11375 and "Amending E.O. No. 11246, 'Relating to Equal Employment Opportunity,") that may in the future affect construction activities that are undertaken in the course of this Project. The Grantee agrees to take affirmative action to ensure that Grantees are employed, and that employees are treated during their employment, without regard to race, color, creed, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee also agrees to comply with any implementing requirements that the FTA may issue.

B. Illinois Human Rights Act - The Grantee shall comply with the "Equal Employment Opportunity Clause" that the Illinois Department of Human Rights requires. It is understood that the term, "contractor," shall also mean "Grantee." The Equal Employment Opportunity Clause reads as follows and shall apply to the Project:

The Grantee may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, if the Grantee fails to comply with any provisions of the Illinois Equal Employment Opportunity Clause and/or the Illinois Human Rights Act Rules and Regulations of the Illinois Department of Human Rights (hereinafter "Department" for this subsection only). The Agreement may be wholly or partly canceled or voided and other sanctions or penalties may be imposed or remedies invoked as statutes or regulations have provided. During the Grantee's performance of the Agreement, the Grantee agrees as follows:

1. That it will not discriminate against any employee or Grantee for employment because of race, color, religion, sex, national origin, sexual orientation, ancestry, age, physical or mental handicap unrelated to ability, or unfavorable discharge from military service. It will also examine all job classifications to determine if minorities or women are underutilized and take appropriate affirmative action to rectify any underutilization.
2. That, if it hires additional employees to perform this contract or any portion of it, the Grantee will determine the availability (under the Department's Rules and Regulations) of minorities and women in area(s) where it may reasonably recruit and hire for each job classification that employees are hired, in a way that minorities and women are not underutilized.

3. That the Grantee will state that all Grantees will be given equal opportunity without discrimination based on color, race, religion, sex, national origin, sexual orientation, ancestry, physical or mental handicap unrelated to ability, or unfavorable discharge from military service in all solicitations or advertisements for employees placed by it or on its behalf.
  4. That the Grantee will send a notice to each labor organization or workers' representative that has a collective bargaining agreement or other agreement or understanding that binds the Grantee, to advise them of the Grantee's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If a labor organization or representative fails or refuses to cooperate with the Grantee in its efforts to comply with the aforementioned Act and Rules and Regulations, the Grantee will promptly notify the Department and the contracting agency and recruit employees from other sources when necessary to fulfill its obligations thereunder.
  5. That the Grantee will submit reports that the Department's Rules and Regulations have required, furnish all relevant information that the Department or contracting agency may request from time-to-time, and fully comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
  6. That the Grantee will allow the contracting agency and Departmental personnel to access all relevant books, records, accounts, and work sites to determine its compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
  7. That it will include this section's provisions verbatim or by reference in every subcontract it awards, under which any portion of the contract obligations are undertaken or assumed, so that these provisions will bind the subcontractors. In the same manner as with other provisions of these Certifications & Assurances, the Grantee will be liable for its subcontractors' compliance with this clause's applicable provisions and will promptly notify the RTA and IDOT if any subcontractor fails or refuses to comply with these provisions. The Grantee will also not use any subcontractor that the Illinois Human Rights Commission declares ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
- C. Disadvantaged Business Enterprise ("DBE") - To the extent required by federal law, regulation, or directive, the RTA encourages all of its grantees to make a good-faith effort to contract with "DBEs." Grantees who receive more than the minimal federal assistance threshold (currently \$250,000 in FTA capital and operating funds, exclusive of funds for transit vehicles purchases, see 49 CFR Part 26.67, or \$100,000 in planning funds) agree to facilitate participation of disadvantaged business enterprises (DBE) as follows:
1. The Grantee agrees to comply with current U.S. DOT regulations at 49 CFR Part 26, including any amendments thereto that may be issued during the term of the Agreement.
  2. The Grantee agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT-assisted contract. The Grantee agrees to take all necessary and reasonable steps under 49 CFR Part 26 to ensure that eligible DBEs have the maximum feasible opportunity to participate in U.S. DOT-assisted contracts. The Grantee DBE

program, if required by 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference into the Agreement. Implementation of this program is a legal obligation, and the RTA shall treat failure to carry out its terms as a violation of the Agreement. Upon notification to the Grantee of its failure to carry out its approved program, U.S. DOT may impose sanctions as provided for under 49 CFR Part 26.

3. The Grantee agrees to include the following clause in all of its agreements and in of its third party contracts funded wholly or partly with Governmental assistance:

“The Grantee or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this (contract or agreement). The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT assisted (contracts or agreements). Failure by the (contractor, or subcontractor) to carry out these requirements is a material breach of the (contract or agreement), that may result in the termination of this (contract or agreement) or such other remedy as the RTA deems appropriate.”

#### D. Disabilities

1. Access Requirements for Individuals with Disabilities - The Grantee agrees to comply with and assure the RTA that any third party contractor under this Project complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA); 42 U.S.C. Section 12101 *et seq.*; 49 U.S.C. Section 5301(d); Section 504 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended; 49 U.S.C. App. Section 1612; Architectural Barriers Act, as amended; 42 U.S.C. Section 4151 *et seq.*; and the following regulations and any amendments thereto:
  - a) DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
  - b) DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38;

#### *Section 26-6. Substance Abuse/Drug Free Workplace*

The Grantee agrees to comply with the Illinois (30 ILCS 580/1 *et seq.*) and U.S. DOT Drug Free Workplace Acts; U.S. DOT regulations entitled, "Drug-Free Workplace Requirements (Grants)," 49 CFR Part 29 Subpart F, as modified by 41 U.S.C. Section 702, *et seq.*; when promulgated, U.S. DOT regulation, "Government-wide Requirements for Drug Free Workplace (Grants)," 49 CFR Part 32; and other U.S. DOT and FTA regulations and guidance pertaining to substance abuse (drugs and alcohol) that may be promulgated.

If applicable, the Grantee also agrees to comply with all aspects of the anti-drug program outlined in the "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" regulation, 49 CFR Part 655; the "Procedures for Transportation in Workplace Drug and Alcohol Testing Program, as revised December 19, 2000" regulation, 49 CFR Part 654, and to require contractors and subcontractors, when applicable under 49 U.S.C. Section 5331 and 49 CFR Part 655, to do the same.

### Section 26-7. Environmental Requirements

The Grantee recognizes that many federal and state statutes, which impose environmental, resource conservation, and energy requirements, may apply to the Project.

Accordingly, the Grantee agrees to adhere to, and impose on its third party contractors, any federal and state requirements that the Government may now or in the future promulgate. The Grantee expressly understands that the following list does not constitute the Grantee's entire obligation to meeting federal requirements.

- A. Environmental Protection - To the extent applicable, the Grantee agrees to comply with the requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. Section 4321 *et seq.*; Section 14 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1610; the Council on Environmental Quality regulations, 40 CFR Part 1500 *et seq.*; and the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.
- B. Air Quality - The Grantee agrees to comply with applicable requirements of the following Environmental Protection Agency (EPA) regulations: "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 CFR Part 51 Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 CFR Part 93. To support this Project's requisite air quality conformity finding, the Grantee agrees to implement each air quality mitigation and control measure incorporated in the Project. The Grantee agrees that any Project that is identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure, will be wholly consistent with the description of the Project's design concept and scope set forth in the SIP.  
  
The EPA also imposes requirements pertaining to the Clean Air Act, as amended that may apply to transit operators, particularly operators of large transit bus fleets. Thus, the Grantee should be aware that the following EPA regulations, among others, may apply to this Project: "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines," 40 CFR Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86; and "Fuel Economy of Motor Vehicles," 40 CFR Part 600.
- C. Use of Public Lands - To the extent applicable, no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by federal, state, or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used for this Project, unless U.S. DOT has made specific findings required under 49 U.S.C. Section 303.
- D. Mitigation of Adverse Environmental Effects - Should the proposed Project cause adverse environmental effects, the Grantee agrees to take all reasonable steps to minimize such effects pursuant to 49 U.S.C. Section 5324, all other applicable statutes, and the procedures set forth in 23 CFR Part 771 and 49 CFR Part 622.
- E. Energy Conservation - The Grantee and its third party contractors at all tiers shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in applicable state energy conservation plans issued under the Energy Policy and Conservation Act, 42 U.S.C. Section 6321 *et seq.*

- F. Clean Water - For all contracts and subcontracts exceeding \$100,000, Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.*
- G. Clean Fuels - To the extent applicable to the Grantee and its contractors and subcontractors, the Grantee shall comply with the requirements of the "Clean Fuels Formula Grant Program," 49 CFR Part 624 and any of the federal government other requirements, 49 U.S.C. Section 5308.

*Section 26-8. Privacy*

Should the Grantee, or any of its third party contractors, or their employees, administer any system of records on behalf of the Federal or State Government, the Privacy Act of 1974, 5 U.S.C. Section 552a and 49 CFR Part 29 Subpart F, imposes information restrictions on the party managing the system of records.