

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE SOUTHWEST OHIO REGIONAL TRANSIT AUTHORITY
AND
THE CITY OF CINCINNATI**

PURPOSE:

To disburse federal grant funds for the Cincinnati Streetcar Project, which project consists of construction of a modern streetcar system approximately 4.9 miles in length and connecting Cincinnati's Central Business District, Over-the-Rhine neighborhood and Uptown area. The first segment of this system will consist of a circulator route approximately 3.1 miles in length, utilizing approximately five modern streetcar vehicles, and connecting the Central Business District with Over-the-Rhine (the "Project"). (the "Project").

PARTIES:

1. The Southwest Ohio Regional Transit Authority, a regional transit authority and political subdivision of the State of Ohio ("SORTA").
2. The City of Cincinnati, an Ohio municipal corporation (the "City").

RECITALS:

- A. The Project has been awarded federal funding in the cumulative amount of \$28,999,990, comprising (i) \$24,999,990 in Urban Circulator program funds (the "UC Funds") and (ii) \$4,000,000 in Congestion Mitigation and Air Quality Improvement program funds (the "CMAQ Funds") and together the UC Funds and any additional federal funds to be received by SORTA in furtherance of the Project, the "Grant Funds").
- B. SORTA and the City desire to jointly support the Project, in accordance with requirements of the Federal Transit Administration (the "FTA"). The parties desire to designate SORTA as the recipient of the Grant Funds (with the City designated as the exclusive subrecipient of such Grant Funds) and to designate the City to oversee and carry out the Project, including but not limited to (i) providing a project manager and other necessary City personnel and services, (ii) providing construction services, (iii) providing project management services during construction and (iv) providing design and engineering services during construction. To date, the approved Project is funded in the cumulative amount of \$28,999,990, as set forth in Exhibit A.
- C. SORTA and the City enter into this Intergovernmental Agreement (this "Agreement") for the purpose of disbursing the Grant Funds to the City for the City's accomplishment of the Project. Independent of this Agreement, SORTA and the City intend to negotiate an agreement under which SORTA operates and maintains the Cincinnati streetcar system upon completion of the Project.

AGREEMENTS:

1. General

- A. This Agreement consists of this document and the United States of America Department of Transportation Federal Transit Administration Master Agreement that contains the

standard terms and conditions governing the administration of a project supported with Federal assistance awarded by the FTA through a Grant Agreement (which Master Agreement was most recently updated on October 1, 2010 and is found at <http://www.fta.dot.gov/documents/17-Master.pdf>, and may be amended from time to time).

- B. This Agreement is subject to a financial assistance agreement between SORTA and the FTA. As subrecipient, the City shall comply with all applicable federal laws, regulations, executive orders, circulars, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a "Recipient" set forth in the FTA Master Grant Agreement between SORTA and the FTA; (2) 49 C.F.R. Part 18 ("Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"); (3) Office of Management and Budget ("OMB") Circular A-87 ("Cost Principles for State, Local, and Indian Tribal Governments"); (4) FTA Circular 4220.1F ("Third Party Contracting Guidance"); (5) FTA Circular 5010.1D ("Grant Management Requirements"); and (6) all Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements, as updated annually.
- C. The City shall manage and implement the Project by preparing a detailed schedule for submission to the FTA, requesting proposals, amending existing contracts as may be necessary, scheduling, budgeting, conducting regular coordination meetings, preparing expenditure and progress reports, reviewing and approving subcontractor documents and submittals, making payments and taking other actions necessary to complete the Project in conformity with applicable City, SORTA and FTA procedures and requirements (including, without limitation, compliance with Disadvantaged Business Enterprise contracting goals established by SORTA).
- D. The City agrees that it is under a continuing obligation to comply with the foregoing requirements, as they may be modified or amended from time to time. The City further agrees to execute the funded activities in accordance with the terms of those requirements, as they may be amended during the term of this Agreement. This Agreement is subject to any amendments required as a result of agreement between the FTA and SORTA, and shall be amended to incorporate those changes.

In addition to the foregoing, the City agrees that SORTA's rights of audit and review under Section 3 of this Agreement specifically include the City's financial records, management and program systems and any associated records. The City shall comply with any Agreement monitoring and audit requirements established by SORTA pertaining to this Agreement.

- E. The City shall not be relieved of any responsibility for performance of its duties under this Agreement, regardless of any subcontract entered into. The City agrees that any subcontractor performing services under this Agreement shall comply with the requirements of this Agreement (including FTA third party agreement contract provisions and requirements, as may be amended), and shall enter into a written agreement with each subcontractor requiring the incorporation of those requirements as applicable to each tier.
- F. (1) The City acknowledges that the provisions of the Program Fraud Civil Remedies Act

of 1986 (31 U.S.C. 3801 et seq., as amended), as implemented by regulations of the U.S. Department of Transportation (the “USDOT”) at 49 C.F.R. Part 31, apply to its actions pertaining to the work under this Agreement. Upon execution of this Agreement, the City certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or cause to be made pertaining to this Agreement or the FTA-assisted project for which this work is performed. In addition to other penalties that may be applicable, the City acknowledges that if it makes, or causes to be made a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the City to the extent the Federal Government deems appropriate.

(2) The City also acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification to the Federal Government under an agreement connected with a project that is financed in whole or part with Federal assistance awarded by the FTA, the Federal Government reserves the right to impose penalties upon the City as set forth in 18 U.S.C. 1001 and 49 U.S.C. 5323(1), to the extent the Federal Government deems appropriate.

(3) The City agrees to include the above two clauses in each subcontract it awards under this Agreement financed in whole or in part with FTA funds or non-federal funds provided to match the Grant Funds. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

- G. The City and SORTA acknowledge and agree that notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Agreement, absent the express written consent of the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the City, SORTA or any other party (whether or not a party to this Agreement or any agreement awarded pursuant hereto) pertaining to any matter resulting from this Agreement.
- H. The Lobbying Certificate attached hereto as Exhibit B and Non-Discrimination Assurance attached hereto as Exhibit C are incorporated into and made part of this Agreement.
- I. The City and SORTA acknowledge and agree that, with respect to issues concerning the Project, the City’s Streetcar Project Manager and SORTA’s designated staff representative shall serve as the primary contact for the FTA. The City’s Streetcar Project Manager shall promptly inform SORTA of all FTA communications that may affect SORTA or this Agreement and, to the extent applicable, obtain SORTA approval of all actions, decisions and documents related to administration of the Project, as such approvals may be required by the FTA.

2. Subsequent Agreement(s)

SORTA and the City shall enter into one or more subsequent agreements to memorialize their respective responsibilities arising from Project oversight requirements set by the FTA’s Project Management Oversight Contractor.

3. Inspection of Records and Services

- A. (1) The City shall maintain intact and readily accessible a complete set of records relating to this Agreement for a period equal to three (3) years after the date of transmission of the final expenditure report for the Project, including but not limited to all data, documents, reports, records, contracts and supporting materials as the Federal Government or SORTA may require. The City shall permit SORTA, the USDOT, and the Comptroller General of the United States, and all of their respective authorized representatives, to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of the City relating to its performance under this Agreement during such period. Upon request by SORTA, the City shall provide SORTA access to and shall provide a copy of records maintained by the City under this Agreement.
- (2) The City shall follow the requirements stated in the Single Audit Act of 1984 (31 U.S.C. 7501 et seq., as amended). If the City expends Federal funds in excess of \$500,000 from all sources in its fiscal year, the City is subject to audit conducted in accordance with OMB Circular A-133 (“Audits of States, Local Governments and Non-Profit Organizations”). The City shall, at its expense, submit to SORTA a copy of any annual federal, state or independent audit covering the Grant Funds expended under this Agreement and shall submit a copy of any annual federal, state or independent audit of any subcontractor of the City responsible for the financial management of Grant Funds received under this Agreement, together with a copy of the management letter accompanying such audit.
- B. The City further agrees to include in any third party contract under this Agreement a provision to the effect that the contractor must retain and grant SORTA, the USDOT and the Comptroller General of the United States, or any of their authorized representatives, access to all books, documents, papers and records directly pertinent to the contract, for the purpose of making audit, examination, excerpts and transcriptions, until the expiration of three (3) years after (1) final payment under the contract or (2) expiration of the contract, whichever is later.
- C. For records that relate to (1) disputes between SORTA and the City, (2) litigation or settlement of claims arising out of the performance of this contract or (3) costs and expenses of this Agreement as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, the periods of access and examination described in subsections 3(A) and 3(B) shall continue until all disputes, claims, litigation, appeals and exceptions relating to such records have been resolved. The City agrees to include in any third party contract under this Agreement a provision to this effect.
- D. The foregoing provisions are in addition to and not in lieu of any other applicable federal or state laws, regulations, rules, circulars or directives. The City agrees to include in any third party contract under this Agreement a provision to this effect.

4. Reporting Requirements

The parties recognize that the Project is a “major capital project” (as defined in 49 C.F.R. 633.5) and as such, SORTA will be required to submit a monthly report to the FTA with a current cost forecast and trends, as well as an updated schedule. Accordingly, the City shall submit monthly reports to SORTA. Recognizing that SORTA must submit its reports to the FTA within 10 days after the end of each month, the City’s monthly reports shall be due 3 days after the end of each

month.

Reports shall include complete information required by FTA Circular 5010.1D, Chapter III, Section 3 (“Reporting Requirements”), particularly the status of grant activity line items, budget and schedule changes, milestone revisions or cost variances, outstanding claims, change orders and other information that the circular may require. SORTA may require additional reporting information from the City.

5. Management of Grant Funds

- A. SORTA shall pay Project costs in an amount not to exceed the aggregate amount of the Grant Funds over the life of and in accordance with this Agreement, and shall manage the Grant Funds.
- B. The City shall bill SORTA monthly for work completed. An itemized invoice will be required in order for SORTA to release Grant Funds. Provided that SORTA has received Grant Funds, SORTA shall pay the City’s invoices within thirty (30) days from the date of receipt.
- C. The City shall make arrangements for any interim financing as necessary to make payments to subcontractors, if such payments are due before Grant Funds become available to SORTA.
- D. The City agrees to provide sufficient funds or approved in-kind resources to serve as local match for the Grant Funds for the Project in compliance with 49 U.S.C. Chapter 53. The City certifies that it has or will have the proportionate amount of local match available promptly as Project costs are incurred or become due.
- E. SORTA may only withhold payment of Grant Funds if: (1) the Grant Funds are not being used in accordance with this Agreement; (2) all required reporting has not been submitted; or (3) there are any unresolved audit findings relating to the City’s performance. The City shall assure that Grant Funds allocated hereunder are used only for the purposes permitted; if the City allocates such Grant Funds for purposes other than those permitted by this Agreement and such allocation results in a breach of conditions that requires SORTA to reimburse Grant Funds to the FTA or otherwise incur costs from the FTA’s withholding of Grant Funds, the City shall hold harmless and indemnify SORTA for an amount equal to the Grant Funds required to be repaid or withheld plus any additional costs or expenses incurred by SORTA.

6. Independent Contractor/Indemnification

- A. The City is an independent contractor for all purposes under this Agreement, and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement. Notwithstanding the foregoing, the City may apply proceeds of the Grant Funds toward the costs and expenses related to its employment of individuals to perform the work under this Agreement. The City shall have sole control and supervision over the manner in which services are performed, subject only to consistency with the terms of this Agreement. Neither the City, nor its officers, directors, employees, subcontractors or drivers, are officers, employees or agents of SORTA. The City, its directors, officers, employees, subcontractors and drivers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of

SORTA for any purpose whatsoever. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

- B. Subject to the limits of the Ohio Revised Code and the Ohio Constitution, the City agrees to fully indemnify, hold harmless and defend SORTA, its directors, officers, employees and agents from and against all third party claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys' fees, resulting from or arising out of the activities of the City, its officers, employees or agents under this Agreement. For the avoidance of doubt, the indemnification obligations set forth in this subsection shall not be limited by the coverage amounts of any insurance policy maintained by the City.
- C. Subject to the limits of the Ohio Revised Code and the Ohio Constitution, SORTA agrees to fully indemnify, hold harmless and defend the City, its officers, employees and agents from and against all third party claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys' fees, resulting from or arising out of the activities of SORTA, its directors, employees or agents under this Agreement. This provision does not apply to, and under no circumstances shall SORTA be liable for, any loss, delay or interruption of the Grant Funds, or any damages resulting therefrom.
- D. The City agrees to include in any third party contract under this Agreement a provision to the effect that the contractor shall fully indemnify, hold harmless and defend SORTA, its directors, officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigations and defense thereof, including reasonable attorney fees, resulting from or arising out of the activities of such subcontractor, its officers, employees or agents under the contract between the City and such subcontractor procured pursuant to this Agreement.

7. Insurance

- A. While this Agreement is in effect, the City agrees that it shall require any subcontractors it uses to agree to comply with the insurance requirements provided below. Prior to commencement of work under this Agreement, the City shall furnish to SORTA a certificate(s) of insurance executed by a duly authorized representative of each insurer showing compliance with the insurance requirements below. Failure of SORTA to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of SORTA to identify a deficiency from evidence that is provided shall not be construed as a waiver of the City's obligation to require such insurance from its subcontractors.
- B. The City's subcontractors shall be responsible for payment of all premiums and deductibles. Insurance shall be maintained of the types and in the amounts described below:
 - (1) Commercial General Liability (CGL) Insurance with a limit of not less than \$1,000,000 each occurrence.
 - (2) Business Auto Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of the use of any auto (including

owned, hired, and non-owned autos).

(3) Workers' Compensation and Employer's Liability Insurance. The workers' compensation limit shall be equivalent to or greater than the Ohio statutory limits.

(4) The insurance required under this Section shall:

Include SORTA, the FTA, the City and each of their respective directors, officers, agents, and employees as additional insureds with respect to work or operations connected with this Agreement; and

Require the insurer to give SORTA and the City not less than thirty (30) days notice prior to termination or cancellation of coverage.

8. Termination

SORTA may terminate this Agreement, in whole or in part, effective upon delivery of written notice to the City, or at such later date as may be established by SORTA, under any of the following conditions:

- A. The City fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
- B. The City fails to comply with or perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from SORTA fails to correct such failures within thirty (30) days or such longer period as SORTA may authorize;
- C. Any laws, regulations, rules or guidelines are modified by the Federal Government in such a way that financial assistance or purchase of equipment provided for in this Agreement is no longer allowable or is no longer eligible for funding proposed by this Agreement; or
- D. Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of Grant Funds.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

9. Compliance with Laws

The City shall comply with all applicable federal, state and local laws, rules and regulations applicable to the work hereunder, and shall ensure that each of the City's subcontractors complies with such laws, rules and regulations.

10. Funding

The City shall submit monthly bills to SORTA for project expenses incurred. The maximum funding to be disbursed to the City will be determined by the actual appropriation provided by the Grant Funds.

11. Term

This Agreement shall begin on May 20, 2011 and shall remain in effect until the Project has been completed.

12. Communications

All communications between the parties regarding this Agreement shall be directed to the parties' respective Project Managers as indicated below:

SORTA:

Colin Groth
SORTA
602 Main Street, Suite 1100
Cincinnati, Ohio 45202
TEL: (513) 632-7522

City:

Chris Eilerman
City of Cincinnati
801 Plum Street
Cincinnati, Ohio 45202
TEL: (513) 352-5326

13. No Third Party Beneficiary

SORTA and the City are the only parties to this Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

14. Assignment

The City may not assign, delegate or subcontract any of its rights or obligations under this Agreement to any other party without the prior written consent of SORTA. Any assignment, delegation or subcontract in violation of this Section shall be null and void, and shall constitute grounds for immediate termination by SORTA.

15. Jurisdiction

This Agreement shall be governed by the laws of the State of Ohio, and the parties agree to submit to the jurisdiction of the courts of the State of Ohio and the venue of the Court of Common Pleas in Hamilton County.

16. Mediation

Should any dispute arise between the parties concerning this agreement that is not resolved by mutual agreement, it is agreed that such dispute will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this agreement agree to participate in good faith in a non-binding mediation process. The mediation shall take place in Cincinnati, Ohio. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. The mediator's fees and costs shall be borne equally by the parties.

17. Entire Agreement/Authority

This Agreement, together with the exhibits attached hereto, constitute the entire Agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made shall be effective only in the specific instance and for the specific purpose given. The failure of SORTA to enforce any provision of this Agreement shall not constitute a waiver by SORTA of that or any other provision. The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers, all as of the day and year first above written.

SOUTHWEST OHIO REGIONAL TRANSIT AUTHORITY

By: Terry Garcia Crews
Name: Terry Garcia Crews
Title: Chief Executive Officer and General Manager

Approved as to Form:

By: William J. Desmond
Name: WILLIAM J. DESMOND
Title: EXEC. DIRECTOR, LEGAL AFFAIRS

CITY OF CINCINNATI

By: Milton Dohoney, Jr.
Name: Milton Dohoney, Jr.
Title: City Manager

Recommended by Streetcar Project Manager:

By: Chris Eilerman
Name: Chris Eilerman
Title: Streetcar Project Manager

Approved as to Form:

By: Jonathan D. Brodhag
Name: Jonathan D. Brodhag
Title: Assistant City Solicitor

EXHIBIT A

FUNDING INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) Circular A-133.

This agreement is financed by the funding sources indicated below:

Federal Program or Title :

Urban Circulator Section 5309:	\$24,990,000
Congestion Mitigation and Air Quality:	\$4,000,000

Federal Catalogue Number:

Urban Circulator Section 5309:	CFDA#20500
Congestion Mitigation and Air Quality:	CFDA #20507

Federal Grant Number:

Urban Circulator Section 5309:	OH-03-0303
Congestion Mitigation and Air Quality:	OH-95-X054

Expected Federal Funding:

Urban Circulator Section 5309 Funds
Federal fiscal year 2010 - \$24,990,000

Congestion Mitigation and Air Quality Funds
Federal fiscal year 2011 - \$4,000,000

Federal Funding Agency:

U.S. Department of Transportation
Federal Transit Administration
1200 New Jersey Ave. SE
4th floor – East Building
Washington, DC 20590

U.S. Department of Transportation
Federal Transit Administration, Region V
200 W. Adams St.
Suite 320
Chicago, IL 60606

EXHIBIT B

Contract No. _____

LOBBYING CERTIFICATE

The undersigned certifies, to the best of its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with THIS Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL ("Disclosure Form to Report Lobbying") in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

CITY OF CINCINNATI,
an Ohio municipal corporation

By: Milton Dohoney, Jr.
Name: Milton Dohoney, Jr.
Title: City Manager
Date: 5/20/11

NOTE: CONTRACTORS ARE REQUIRED, PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT C

Contract No. _____

NON-DISCRIMINATION ASSURANCE

The City certifies compliance with the following nondiscrimination requirements:

Nondiscrimination

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 42 U.S.C. 2000d (which prohibits against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin) and by USDOT regulations at 49 CFR part 21 (“Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964”), the City 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) for which the City receives Federal assistance awarded by the USDOT or the FTA.

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 City retains ownership or possession of the project property, whichever is longer, the City 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 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 USDOT or FTA. Upon request by USDOT or FTA, the City assures that it will submit the required information pertaining to its compliance with these provisions.
- (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 provided by FTA 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.
- (6) It will make any changes in its Title VI implementing procedures as USDOT 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.

The City acknowledges that, as a subrecipient of federal funds under this Agreement, it is subject to the requirements of FTA Circular 4702.1A ("Title VI and Title VI-Dependent Guidelines for FTA Recipients"). Further, the City shall provide Title VI compliance information and measures as may be determined by SORTA pursuant to the Circular.

Assurance of Nondiscrimination on the Basis of Disability

As required by USDOT regulations at 49 CFR part 27 ("Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance"), the City assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA 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, 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 or any entity within USDOT. The City assures that project implementation and operations so assisted will comply with all applicable requirements of USDOT 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 USDOT 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.