

**FEDERAL FISCAL YEAR 2011 CERTIFICATIONS AND ASSURANCES FOR  
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
DIVISION OF MASS TRANSPORTATION**

**PREFACE**

*In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for the Federal Transit Administration (FTA) assistance programs. FTA requests each Subrecipient of the California Department of Transportation (Department) to provide as many certifications and assurances as needed for all programs for which the Subrecipient intends to seek FTA assistance during Federal Fiscal Year 2011. Category 01 applies to all Subrecipients. Category 02 applies to all applications for Federal assistance because the Department is awarded grants in excess of \$100,000. Categories 03 through 18 will apply to and be required for some, but not all, Subrecipients and projects. A Subrecipient may select a single certification that will cover all the programs for which it anticipates submitting an application. FTA and the Department request the Subrecipient read each certification and assurance carefully and select all certifications and assurances that may apply to the programs for which it expects to seek Federal assistance.*

*FTA, the Department, and the Subrecipient understand and agree that not every provision of these certifications and assurances will apply to every Subrecipient or every project for which FTA provides Federal financial assistance through a Standard Agreement or Cooperative Agreement. 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 FTA's enabling legislation currently in effect.*

*The Subrecipient 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 Federal laws, regulations, and directives that may apply to the Subrecipient or its project(s). A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA (17) for Federal Fiscal Year 2011 at the FTA Web site <http://www.fta.dot.gov/documents/17-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 many requirements of these certifications and assurances will require the compliance of third party contractors of a Subrecipient, we strongly recommend that each Subrecipient that will be implementing projects through one or more third party contractors, secure sufficient documentation from each third party contractor to assure compliance, not only with these certifications and assurances, but also with the terms of the Standard Agreement or Cooperative Agreement between the Department and the Subrecipient for the project(s), and the applicable Master Agreement for its project(s), if*

*applicable, incorporated therein by reference. The Department is ultimately responsible for the Subrecipients' compliance with the provisions of the certifications and assurances applicable to itself or its project(s) irrespective of participation in the project(s) by any third party contractor. The Subrecipient understands and agrees that when it applies for FTA assistance to the Department on behalf of a consortium, joint venture, partnership, or team, each member of that consortium, joint venture, partnership, or team is responsible for compliance with the certifications and assurances the Subrecipient selects. Eighteen (18) categories of certifications and assurances are listed by numbers 01 through 18 herein.*

## **01. ASSURANCES REQUIRED FOR EACH SUBRECIPIENT**

*Each Subrecipient for FTA assistance who has received funds through the Department must provide all assurances in this Category "01." Except to the extent that FTA expressly determines otherwise in writing, FTA may not award any Federal assistance until the Subrecipient provides the following assurances by selecting Category "01."*

### *A. Assurance of Authority of the Subrecipient and Its Representative*

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

- (1) Execute and file the application for Federal assistance on behalf of the Subrecipient;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Subrecipient binding the Subrecipient; and
- (3) Execute grant agreements and cooperative agreements with FTA on behalf of the Subrecipient.

### *B. Standard Assurances*

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

### *C. Intergovernmental Review Assurance*

Except if the Subrecipient is an Indian tribal government seeking assistance authorized by 49 U.S.C. 5311(c)(1), the Subrecipient assures that each application for Federal assistance it submits to FTA has been submitted or will be submitted for intergovernmental review to the appropriate State and local agencies as determined by the State. Specifically, the Subrecipient assures that it has fulfilled or will fulfill the

obligations imposed on FTA by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17. This assurance does not apply to Subrecipients for Federal assistance under FTA's Tribal Transit Program, 49 U.S.C. 5311(c)(1).

*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 Subrecipient 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 Subrecipient receives Federal assistance awarded by the U.S. DOT or 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 Subrecipient retains ownership or possession of the project property, whichever is longer, the Subrecipient 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 of 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 U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Subrecipient 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 Title VI of the Civil Rights Act, U.S. DOT implementing regulations, and this assurance;
- (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 Subrecipient 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 U.S. DOT. The Subrecipient 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. Suspension and Debarment*

In accordance with the terms of U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180:

- (1) The Subrecipient certifies to the best of its knowledge and belief, that it and its principals, including its first tier contractors;
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction; violation of any Federal or State antitrust statute; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property;

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification;
  - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) The Subrecipient certifies that it and its principals, including its third party contractor, will treat each third party contract or third party subcontract under the Project that (a) equals or exceeds \$25,000, (b) is for audit services, or (3) requires the consent of a Federal official, as a covered contract for purposes of 2 CFR Part 1200 and 2 CFR Part 180, and will otherwise comply with the Federal requirements of 2 CFR Part 1200 and 2 CFR Part 180, and will assure that each third party contractor or third party subcontractor involved in the Project is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from participation in this transaction by any Federal department or agency;
  - (3) The Subrecipient certifies that if, later, it or its principals, including any of the third party contractors, become aware of any information contradicting the statements of subparagraphs (1)(a) through (d) above, it will promptly provide any necessary information to FTA;
  - (4) If the Subrecipient or any of its principals, including any of its third party contractors or third party subcontractors, is unable to certify to the statements within paragraphs (1), (2), and (3) above, the Subrecipient shall indicate so on its Signature Page or a Page attached in FTA's TEAM system providing a written explanation to FTA.

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

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

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to assure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the State, 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 FTA 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. 290dd through 290dd-2., 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 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 by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Subrecipient 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 Subrecipient will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
  - (b) The Subrecipient 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 Subrecipient 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 Subrecipient will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
  - (e) The Subrecipient 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 Subrecipient 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 Subrecipient will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Subrecipient's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;
  - (h) The Subrecipient 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 Subrecipient 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.*, 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 Subrecipient 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 FTA;
  - (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 provisions 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 assure 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 or the State;
- (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 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, or

- cooperative agreement 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 Animal Welfare Act, 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.*, U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable U.S. 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 or regulations, and follow Federal directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

## **02. LOBBYING CERTIFICATION**

*All Subrecipients awarded any FTA Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance exceeding \$100,000 are required to provide the following certification. FTA may not award a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance exceeding \$100,000 until the Subrecipient provides this certification by selecting Category "02."*

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

(1) No Federal appropriated funds have been or will be paid by or on behalf of the Subrecipient 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 any application for Federal assistance, the Subrecipient 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.

(3) 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 Subrecipient understands that this certification is a material representation of fact upon which reliance is placed by the Federal government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Subrecipient 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.

### **03. PROCUREMENT COMPLIANCE**

*In accordance with 49 CFR 18.36(g)(3)(ii), each Subrecipient that is a State, local, or Indian tribal government that is seeking Federal assistance to acquire property or services in support of its project is requested to provide the following certification by selecting Category "03." FTA also requests other Subrecipients to provide the following certification. A Subrecipient for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project if FTA determines that its procurement practices and procurement system fail to comply with Federal laws or regulations in accordance with applicable Federal directives.*

The Subrecipient certifies that its procurements and procurement system will comply with all applicable Federal laws and regulations in accordance with applicable Federal directives, except to the extent FTA has expressly approved otherwise in writing.

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

*Each Subrecipient that is a State, local, or Indian tribal government that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any 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 is required to provide the following certification. FTA may not award Federal assistance for such a project until the Subrecipient provides this certification by selecting Category "04."*

As required by 49 U.S.C. 5323(a)(1), the Subrecipient 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.

### **05. PUBLIC HEARING**

*A Subrecipient seeking Federal assistance authorized under 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. FTA may not award Federal assistance for a capital project of that type until the Subrecipient provides this certification by selecting Category "05."*

As required by 49 U.S.C. 5323(b), for a proposed capital project that will substantially affect a community or the public transportation service of a community, the Subrecipient certifies that it has, or before submitting its application, it will have:

- A. Provided an adequate opportunity for public review and comment on the proposed project;
- B. After providing notice, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served, held a public hearing on the project if the project affects significant economic, social, or environmental interests;
- 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 community.

#### **06. ACQUISITION OF ROLLING STOCK FOR USE IN REVENUE SERVICE**

*A Subrecipient 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. FTA may not award any Federal assistance to acquire such rolling stock until the Subrecipient provides this certification by selecting Category "06."*

As required by 49 U.S.C. 5323(m) and implementing FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, at 49 CFR 663.7, the Subrecipient 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 Subrecipient agrees to conduct or cause to be conducted the requisite pre-award and post delivery reviews, and maintains on file the certifications required by 49 CFR part 663, subparts B, C, and D.

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

*A Subrecipient that intends to request the use of Federal assistance authorized under 49 U.S.C. chapter 53 to acquire capital assets by lease is required to provide the following certifications. FTA may not provide Federal assistance to support those costs until the Subrecipient provides this certification by selecting Category "07."*

As required by FTA regulations, "Capital Leases," 49 CFR part 639, at 49 CFR 639.15(b)(1) and 49 CFR 639.21, if the Subrecipient acquires any capital asset by lease financed with Federal assistance authorized under 49 U.S.C. chapter 53, the Subrecipient certifies as follows:

- (1) It will not use Federal assistance authorized 49 U.S.C. chapter 53 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 FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

#### **08. BUS TESTING**

*A Subrecipient for 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. FTA may not provide Federal assistance for the acquisition of any new bus model or bus model with a major change until the Subrecipient provides this certification by selecting Category "08."*

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Subrecipient 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):

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

#### **09. CHARTER SERVICE AGREEMENT**

*A Subrecipient seeking Federal assistance authorized under 49 U.S.C. chapter 53 (except as permitted by 49 CFR 604.2), 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. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, for such projects until the Subrecipient enters into this Charter Service Agreement by selecting Category "09."*

- A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations at 49 CFR 604.4, the Subrecipient understands and agrees that it and each lessee, third party contractor, or other participant in the project at any tier may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), 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 Subrecipient understands and agrees that:
  - (1) The requirements of FTA regulations, "Charter Service," 49 CFR part 604, will apply to any charter service it or its lessees, third party contractors, or other participants in the project provide;
  - (2) The definitions of FTA regulations, "Charter Service," 49 CFR part 604, will apply to this Charter Service Agreement; and
  - (3) A pattern of violations of this Charter Service Agreement may require corrective measures and imposition of remedies, including barring the Subrecipient, lessee, third party contractor, or other participant in the project that has engaged in that pattern of violations from receiving FTA financial assistance, or withholding an amount of Federal assistance as set forth in FTA regulations, "Charter Service," 49 CFR part 604, Appendix D.

## **10. SCHOOL TRANSPORTATION AGREEMENT**

*A Subrecipient that is seeking 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. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 for such projects until the Subrecipient enters into this School Transportation Agreement by selecting Category "10."*

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Subrecipient understands and agrees that it and each lessee, third party contractor, or other participant in the project 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, to the extent consistent with 49 U.S.C. 5323(f) or (g), the terms and conditions of which are incorporated herein by reference.

B. The Subrecipient understands and agrees that:

- (1) The requirements of FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) or (g), will apply to any school transportation service it or its lessees, third party contractors, or other participants in the project provide;
- (2) The definitions of FTA regulations, "School Bus Operations," 49 CFR part 605 will apply to this School Transportation Agreement; and
- (3) If there is a violation of this School Transportation Agreement, FTA will bar the Subrecipient, lessee, third party contractor, or other participant in the project that has violated this School Transportation Agreement from receiving Federal transit assistance in an amount FTA considers appropriate.

## **11. DEMAND RESPONSIVE SERVICE**

*A Subrecipient that operates demand responsive service and applies for 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. FTA may not award direct Federal assistance authorized for 49 U.S.C. chapter 53 to a Subrecipient that operates demand responsive service to acquire non-rail public transportation vehicles until the Subrecipient provides this certification by selecting Category "11."*

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Subrecipient 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 Subrecipient'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.

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

*If the Subrecipient is required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations, FTA may not provide Federal assistance to that Subrecipient until it provides this certification by selecting Category "12."*

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Subrecipient 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.

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

*A Subrecipient that intends to request the use of 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 Paul S. Sarbanes Transit in Parks Program is required to provide the following certification. FTA may not provide Federal assistance to support interest or other financing costs until the Subrecipient provides this certification by selecting Category "13."*

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 Subrecipient certifies that it will not seek reimbursement for interest or other financing costs unless it is eligible to receive Federal assistance for those costs and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

## **14. INTELLIGENT TRANSPORTATION SYSTEMS**

*A Subrecipient for 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," is requested to provide the following assurance. FTA strongly encourages any Subrecipient for FTA financial assistance to support an ITS project to provides this assurance by selecting Category "14." A Subrecipient for FTA assistance for an ITS project that fails to provide this assurance, without providing other documentation assuring the Subrecipient's commitment to comply with applicable Federal ITS standards and protocols, may be determined ineligible for award of Federal assistance for the ITS project.*

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 note, apart from certain exceptions, "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, [shall] conform to the national architecture, applicable standards or provisional standards, and protocols developed under [SAFETEA-LU, section 5307] subsection (a).” To facilitate compliance with SAFETEA-LU section 5307(c), 23 U.S.C. 512 note, the Subrecipient 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 FR 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 FTA expressly determines otherwise in writing; and

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 Subrecipient assures that it will use its best efforts to assure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

#### **15. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA GRANT PROGRAM AND PILOT PROGRAM**

*Before the Department of Transportation may award FTA Elderly Individuals and Individuals with Disabilities Formula Grants, Subrecipients are requested to provide the following certifications assurances on behalf of itself and its third party contractors as applicable. The Subrecipient itself is ultimately responsible for compliance with its certifications and assurances even though a third party contractor, or other participant, may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective third party contractors, the Subrecipient is strongly encouraged to take the appropriate measures, including but not limited to, obtaining sufficient documentation from each third party contractor to assure the validity of all certifications and assurances the Subrecipient has made to the Department of Transportation. A Subrecipient that fails to provide these certifications and assurances on behalf of itself and its third party contractors may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5310 if FTA lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Elderly Individuals and Individuals with Disabilities Formula Grant Program and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by 49 U.S.C. 5310 and Section 3012 of SAFETEA-LU, respectively. The Subrecipient is thus requested to select Category “15.”*

A. As required by 49 U.S.C. 5310(d), which makes the requirements of 49 U.S.C. 5307 applicable to the Elderly Individuals and Individuals with Disabilities Formula Grant Program, and 49 U.S.C. 5307(d)(1), and on behalf of the Elderly Individuals and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. 5310 note, the Subrecipient certifies and assures on behalf of itself and its third party contractors as follows:

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

- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Subrecipient 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 Subrecipient will adequately maintain the project equipment and facilities;
  - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Subrecipient, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU: (1) will use competitive procurement (as defined or approved by FTA), (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) The Subrecipient has or will have available and will provide the amount of funds required by 49 U.S.C. 5310(c), and if applicable by section 3012(b)(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 Subrecipient will comply with: (1) 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); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. The Subrecipient assures that each third party contractor either is recognized under State law as a private nonprofit organization with the legal capability to contract with the Subrecipient to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310;
- C. The private nonprofit Subrecipient application for 49 U.S.C. 5310 assistance contains information from which the State concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities;
- D. In compliance with 49 U.S.C. 5310(d)(2)(A) and section 3012(b)(2), the Subrecipient certifies that the project has been, or will be, coordinated with private nonprofit providers of services under 49 U.S.C. 5310;
- E. In compliance with 49 U.S.C. 5310(d)(2)(C), the Subrecipient certifies that allocations to third party contractors of financial assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU will be distributed on a fair and equitable basis; and
- F. In compliance with 49 U.S.C. 5310(d)(2)(B) and Subsection 3012(b)(2) of SAFETEA-LU, the Subrecipient certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

## **16. NONURBANIZED AREA FORMULA PROGRAM FOR STATES**

*The provisions of 49 U.S.C. 5311 establishing the Nonurbanized Area Formula Program for State do not impose, as a pre-condition of award, any explicit certification or assurance*

*requirements established specifically for that program. The State, as the direct recipient of this Nonurbanized Area Formula Program assistance may impose on subrecipients, as a pre-condition of award, certification or assurance requirements. Separate certifications and assurances have been established in Category 22 for an Indian tribe that is an Subrecipient for Tribal Transit Program assistance authorized by 49 U.S.C. 5311(c)(1).*

*Before the State may award Nonurbanized Area Formula Program assistance to a subrecipient, each subrecipient is requested to provide the following certifications and assurances on behalf of itself. Unless the State determines otherwise in writing, the subrecipient itself is ultimately responsible for compliance with its certifications and assurances even though a third party contractor or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective third party contractors, the subrecipient is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from all participants or third party contractors, to assure the validity of all certifications and assurances the subrecipient has made to the State. A subrecipient that fails to provide these certifications and assurances on behalf of itself and its participants or third party contractors may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5311 if the State lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311. The State is thus requested to select Category "16."*

The agency or agency organization serving as the subrecipient, on behalf of the State that administers the Nonurbanized Area Formula Program for States authorized by 49 U.S.C. 5311, assures on behalf of itself and its participants or third party contractors as follows:

- A. The Subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
- B. The Subrecipient has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. The Subrecipient assures that the project equipment and facilities will be adequately maintained;
- D. In compliance with 49 U.S.C. 5311(b)(2)(C)(i), the Subrecipient's program has provided for a fair distribution of Federal assistance authorized for 49 U.S.C. 5311 within their respective region or county, including Indian reservations;
- E. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the Subrecipient's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- F. The projects in the Subrecipient's grant under the Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable; the projects are included in a metropolitan Transportation Improvement Program;
- G. The Subrecipient has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and

H. In compliance with 49 U.S.C. 5311(f) and to the best of my knowledge, the State will expend not less than fifteen (15) percent of its Federal assistance authorized under 49 U.S.C. 5311 to develop and support intercity bus transportation within the State, unless the chief executive officer of the State, or his or her designee, after consultation with affected intercity bus service providers, certifies to the Federal Transit Administrator, apart from these certifications and assurances herein, that the intercity bus service needs of the State are being adequately met.

#### **17. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM**

*Each Subrecipient for Job Access and Reverse Commute (JARC) Formula Grant Program funds awarded from California Department of Transportation, Division of Mass Transportation as authorized under 49 U.S.C. 5316, is required to provide the following certifications on behalf of itself and any third party contractors that may be implementing its project. Unless California Department of Transportation, Division of Mass Transportation determines otherwise in writing, the Subrecipient itself is ultimately responsible for compliance with its certifications and assurances even though a lessee, third party contractor, or other participant may participate in that project. The Subrecipient is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each third party contractor to assure the validity of all certifications and assurances the Subrecipient has made to California Department of Transportation, Division of Mass Transportation. The Subrecipient is thus requested to select Category "17."*

- A. 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 Subrecipient for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its third party contractors, if any, as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Subrecipient has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
  - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Subrecipient 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 Subrecipient will adequately maintain the project equipment and facilities;
  - (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Subrecipient will assure that any elderly individual, any individual 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 Subrecipient, 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 FTA), (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. 5316(f)(1) and 49 U.S.C. 5307(d)(1)(F), the Subrecipient certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316, understand that grant award(s) will be conduct in cooperation with the appropriate MPO in an area wide solicitation for applications, and make on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316, Subrecipients understand the California Department of Transportation, Division of Mass Transportation will conduct a statewide solicitation for applications, and make awards on a competitive basis; and that these activities will be carried out in a manner that complies with or will comply with 49 U.S.C. 5307(c);
  - (7) The Subrecipient has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(h) 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 Subrecipient will comply with: (1) 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); and (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements).
- B. In compliance with 49 U.S.C. 5316(d), the Subrecipient certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), understand the California Department of Transportation, Division of Mass Transportation will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), understand the California Department of Transportation, Division of Mass Transportation will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5316(f)(2), the Subrecipient certifies that any allocations to third party contractors of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;
- D. In compliance with 49 U.S.C. 5316(g)(2), the Subrecipient certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services;
- E In compliance with 49 U.S.C. 5316(g)(3), the Subrecipient certifies that: (1) the projects selected or will be selected for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public; and
- F. In compliance with 49 U.S.C. 5316(c)(3), before the Subrecipient uses funding apportioned under 49 U.S.C. 5316(c)(1)(B) or (C) for projects serving an area other than that specified in 49 U.S.C. 5316(2)(B) or (C), the Subrecipient certifies that the chief executive officer of the State, or his or her designee will have certified to the Federal Transit Administrator, apart from these certifications herein, that all of the objectives of 49 U.S.C. 5316 are being met in the area from which such funding would be derived.

## 18. NEW FREEDOM PROGRAM

*Each Subrecipient for New Freedom Program awarded from California Department of Transportation, Division of Mass Transportation as authorized under 49 U.S.C. 5317 must provide the following certifications on behalf of itself and any third party contractor that may be implementing its project. Unless the California Department of Transportation, Division of Mass Transportation determines otherwise in writing, the Subrecipient itself is ultimately responsible for compliance with its certifications and assurances even though a lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective third party contractors, the Subrecipient is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each third party contractor to assure the validity of all certifications and assurances the Subrecipient has made to California Department of Transportation, Division of Mass Transportation. The Subrecipient is thus requested to select Category "18."*

- A. 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 Subrecipient for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its third party contractors, if any, as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Subrecipient has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
  - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Subrecipient 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 Subrecipient will adequately maintain the project equipment and facilities;
  - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Subrecipient, 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 FTA), (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) The Subrecipient has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g) 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 Subrecipient will comply with: (1) 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); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly

- individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. In compliance with 49 U.S.C. 5317(d), the Subrecipient certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), understand the California Department of Transportation, Division of Mass Transportation will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or financial assistance authorized under 49 U.S.C. 5317(c)(1)(C), understand the California Department of Transportation, Division of Mass Transportation will conduct a statewide solicitation for applications, and make awards on a competitive basis;
  - C. In compliance with 49 U.S.C. 5317(f)(2), the Subrecipient certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services;
  - D. In compliance with 49 U.S.C. 5317(e)(2), the Subrecipient certifies that any allocations to third party contractors of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis; and
  - E. In compliance with 49 U.S.C. 5317(f)(3), the Subrecipient certifies that: (1) projects selected or will be selected for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

##

*Selection and Signature Page(s) follow.*

**FEDERAL FISCAL YEAR 2011 CERTIFICATIONS AND ASSURANCES FOR  
 FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS  
 CALIFORNIA DEPARTMENT OF TRANSPORTATION  
 DIVISION OF MASS TRANSPORTATION**

**The California Department of Transportation is the Applicant (Designated Recipient) for Federal Transit Administration funds, and has agreed to the Certifications and Assurances thereby. All Subrecipients must also agree and comply with applicable provisions of the Categories below.**

**Name of Subrecipient:**

\_\_\_\_\_

**The Subrecipient agrees to comply with applicable provisions of Categories 01 – 18 (Initial here) \_\_\_\_\_**

OR

**The Subrecipient agrees to comply with applicable provisions of the Categories it has selected:**

| <b>Category</b> | <b>Description</b>   | <b>Check All Applicable Categories</b> |
|-----------------|--|--|
| 01.             | Assurances Required For Each Subrecipient.   | _____                                  |
| 02.             | Lobbying.  | _____                                  |
| 03.             | Procurement Compliance.  | _____                                  |
| 04.             | Protections for Private Providers of Public Transportation.                              | _____                                  |
| 05.             | Public Hearing.  | _____                                  |
| 06.             | Acquisition of Rolling Stock for Use in Revenue Service.                                 | _____                                  |
| 07.             | Acquisition of Capital Assets by Lease.  | _____                                  |
| 08.             | Bus Testing.   | _____                                  |
| 09.             | Charter Service Agreement.   | _____                                  |
| 10.             | School Transportation Agreement.   | _____                                  |
| 11.             | Demand Responsive Service.   | _____                                  |
| 12.             | Alcohol Misuse and Prohibited Drug Use.  | _____                                  |
| 13.             | Interest and Other Financing Costs.  | _____                                  |
| 14.             | Intelligent Transportation Systems.  | _____                                  |
| 15.             | Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program. | _____                                  |
| 16.             | Nonurbanized Area Formula Program.   | _____                                  |
| 17.             | Job Access and Reverse Commute Program.  | _____                                  |
| 18.             | New Freedom Program.   | _____                                  |

**FEDERAL FISCAL YEAR 2011 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**  
(Required of all Subrecipients for FTA assistance and all FTA Grantees with an active capital or formula project)

AFFIRMATION OF SUBRECIPIENT

Name of Subrecipient: \_\_\_\_\_

Name and Relationship of Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Subrecipient, I declare that the Subrecipient has duly authorized me to make these certifications and assurances and bind the Subrecipient's compliance. Thus, the Subrecipient agrees to comply with all Federal statutes and regulations, and follow applicable Federal directives, and comply with the certifications and assurances as indicated on the foregoing page applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2011.

FTA intends that the certifications and assurances the Subrecipient selects on the other side of this document, as representative of the certifications and assurances in this document, should apply, as provided, to each project for which the Subrecipient seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2011.

The Subrecipient 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, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized in 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Subrecipient are true and correct.

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

Name \_\_\_\_\_

Authorized Representative of Subrecipient

AFFIRMATION OF SUBRECIPIENT'S ATTORNEY

For (Name of Subrecipient): \_\_\_\_\_

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

I further affirm to the Subrecipient 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.

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

Name \_\_\_\_\_

Attorney for Subrecipient

Each Subrecipient for FTA financial assistance and each FTA Grantee with an active capital or formula project must provide an Affirmation of Subrecipient's Attorney pertaining to the Subrecipient's legal capacity. The Subrecipient may enter its signature in lieu of the Attorney's signature, provided the Subrecipient has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.