

**Attachment 15**  
**Specified Requirements**

**PART A**  
**SPECIFIED REQUIREMENTS**

The Eagle Project shall comply with, and the Concessionaire shall perform its obligations and (where relevant) shall require each Project Contractor and their respective Subcontractors to perform their respective obligations under this Agreement, the other Project Agreements and the Subcontracts in accordance with, the following requirements.

**1. SPECIFIED REQUIREMENTS APPLICABLE TO ALL PROJECT CONTRACTS**

**1.1 Protection of Security Sensitive Information and Critical Infrastructure Information**

All applicable provisions of 49 CFR Part 1520 and 6 CFR Part 29 and all applicable FTA guidance, including FTA Resource Document for Transit Agencies, "Sensitive Security Information (SSI): Designation, Markings, and Control, Resource Document for Transit Agencies" (March 2009), as may be amended, and all Department of Homeland Security (DHS) directives, including DHS Management Directive System MD Number: 11042.1, "Safeguarding Sensitive but Unclassified (For Official Use Only) Information" (January 6, 2005) as may be amended.

**2. SPECIFIED REQUIREMENTS APPLICABLE TO ALL DESIGN/BUILD AND ROLLING STOCK SUPPLY CONTRACTS AND SUBCONTRACTS**

**2.1 FTA terms**

All contractual provisions required by the U.S. Department of Transportation (*USDOT*), as set forth in FTA Circular 4220.1F.

**2.2 FTA regulations and policies**

All applicable FTA regulations, policies, procedures and directives, including those listed directly in or referred to in the current FTA Master Agreement, from time to time during the term of this Agreement.

**2.3 Debarment**

(i) Federal Executive Order no. 12549 (Feb. 18, 1986), (ii) Federal Executive Order no. 12689 (Aug. 16, 1989), (iii) 31 U.S.C. § 6101 note (Section 2455, Pub. L. 103-355, 108 Stat. 3327) and (iv) 49 CFR Part 29 "Governmentwide Debarment and Suspension (Nonprocurement)".

**2.4 Lobbying**

31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995) and 31 U.S.C. 3801, *et seq.*

## 2.5 Program Fraud and False or Fraudulent Statements and Related Acts

The provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and USDOT regulations, "Program Fraud Civil Remedies", 49 CFR Part 31.

## 2.6 Civil Rights

- (a) 49 U.S.C. § 5332 (Nondiscrimination in Federal Public Transportation Programs);
- (b) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with USDOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act", 49 CFR Part 21;
- (c) All applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and any Federal regulations that prohibit discrimination on the basis of sex that may be applicable;
- (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and any U.S. Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 CFR Part 90;
- (e) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634 and any U.S. Equal Employment Opportunity Commission implementing regulations, "Age Discrimination in Employment Act", 29 CFR Part 1625;
- (f) All equal employment opportunity provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Federal implementing regulations and any subsequent amendments thereto, except to the extent FTA determines otherwise in writing, and any applicable Federal equal employment opportunity directives that may be issued from time to time; and
- (g) All applicable equal employment opportunity requirements of U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 CFR Parts 60 *et seq.*, which implement Executive Order No. 11246, "Equal Employment Opportunity", as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity", 42 U.S.C. § 2000e, and also with any Federal laws, regulations, and directives that may in the future affect construction undertaken as part of the Eagle Project.

## 2.7 Fly America Requirements

49 U.S.C. § 40118 (the *Fly America Act*) and the General Services Administration's regulations at 41 CFR Part 301-10.

**2.8 Access Requirements For Persons With Disabilities**

- (a) 49 U.S.C. § 5301(d);
- (b) All applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended by 29 U.S.C. § 794;
- (c) The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*; and
- (d) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*

**2.9 Energy Conservation Requirements**

- (a) All applicable mandatory energy efficiency standards and policies within applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*; and
- (b) The Requirements of FTA regulations, "Requirements for Energy Assessments", 49 CFR Part 622, Subpart C.

**2.10 Clean Water Requirements**

All applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*

The Concessionaire shall report all violations thereof to RTD, to FTA and to the appropriate Environmental Protection Agency Regional Office.

**2.11 Clean Air Requirements**

All applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.*

The Concessionaire shall report all violations to RTD, to FTA and to the appropriate Environmental Protection Agency Regional Office.

**2.12 Contract Work Hours and Safety Standards Act**

All applicable requirements of the Contract Work Hours and Safety Standards Act 40 U.S.C. 3702 *et seq.*, and all applicable implementing regulations.

**2.13 Seismic Safety Requirements**

The standards for Seismic Safety required in USDOT Seismic Safety Regulations, 49 CFR Part 41j.

**2.14 Davis-Bacon and Copeland Anti-Kickback Acts**

The provisions of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 and any rulings and interpretations issued by the Secretary of the United States Department of Labor.

### **2.15 Compliance with Copeland Act requirements**

The requirements of 29 CFR Part 3.

### **2.16 Recycled Products**

All requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended by 42 U.S.C. 6962, including the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

### **2.17 Buy America**

49 U.S.C. 5323(j) and 49 CFR Part 661.

### **2.18 Cargo Preference Requirements**

All applicable requirements of 42 U.S.C. 1241 and 46 CFR 381.

### **2.19 Pre-Award and Post-Delivery Audit Requirements**

49 U.S.C. § 5323(m) and FTA regulations "Pre-Award and Post Delivery Audits of Rolling Stock Purchases" at 49 CFR Part 663.

## **3. SPECIFIED REQUIREMENTS APPLICABLE TO THE O&M CONTRACTOR AND THE O&M SUBCONTRACTORS**

### **3.1 Privacy Act**

The information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a.

### **3.2 Background Checks, Redress and Immigration Status**

All applicable provisions contained in 49 C.F.R. Parts 1570, 1572, and 1580, as well as all relevant FTA, Department of Homeland Security (DHS) and Transportation Security Administration (TSA) guidance, including FTA guidance, "Transit Agency Security and Emergency Management Protective Measures" (November 2006), and joint FTA/TSA guidance, "TSA/FTA Security and Emergency Management Action Items for Transit Agencies" (December 2006), each as supplemented by TSA guidance "Additional Guidance on Background Checks, Redress and Immigration Status".

**PART B**  
**DISADVANTAGED AND SMALL BUSINESS**  
**ENTERPRISES PROGRAMS**

**1. DEFINITIONS**

Unless the context requires otherwise, capitalized terms used in this Part B of Attachment 15 shall have the meanings given to them in Section 1.1 (*Definitions*) of the Agreement. In addition, the following capitalized terms shall have the meanings set out below:

***DBE Goals*** has the meaning given to it in Section 3.1(c)(i) of this Part B of Attachment 15.

***DBE/SBE Enclosures*** means the certificates and forms attached to this Attachment 15 at Annex 2 (*DBE/SBE Enclosures*).

***DBE/SBE Liaison Officer*** means a representative of the Concessionaire having management responsibility for implementing, managing and reporting on achievement of the DBE Goals and the SBE Goals, communicating subcontracting, business development and supportive services activity at all tiers, ensuring compliance with the non-discrimination provisions and the affirmative action and equal employment opportunity provisions.

***DBE/SBE Participation Report*** has the meaning given to it in Section 3.4(a) of this Part B of Attachment 15.

***Design/Build DBE/SBE Plan*** means a plan, prepared by or on behalf of the Concessionaire, that:

- (a) identifies the Concessionaire's proposed DBE/SBE Liaison Officer;
- (b) describes how the Concessionaire plans to satisfy the requirements of Sections 2 and 3 of this Part B of Attachment 15, including achievement of the DBE Goals and the SBE Design/Build Goals, including a description of:
  - (i) the DBE Qualifying Work that will be subcontracted out to DBEs and the total Dollar value of such DBE Qualifying Work;
  - (ii) the SBE Qualifying Work that will be subcontracted out to SBEs and the total Dollar value of such SBE Qualifying Work;
  - (iii) how such Subcontracts will be procured;
  - (iv) all business development initiatives, support services, mentoring programs, outreach and recruitment strategies and other similar initiatives relating to the DBE and SBE communities; and
  - (v) strategies to implement and enforce compliance by Prime Contractors with the DBE Goals and the SBE Design/Build Goals; and
- (c) identifies those transit vehicle manufacturers with whom the Rolling Stock Supplier intends to contract which are DBEs;

- (d) identifies those DBEs and SBEs the Concessionaire intends to utilize during the relevant period and the Dollar value of each proposed DBE and SBE contract; and
- (e) includes DBE/SBE Enclosures in respect of each of the DBEs and SBEs identified in the plan (to the extent not already submitted with a previous version of the plan).

***DBE Qualifying Work means:***

- (a) 100% of the design and construction of Early Work;
- (b) 100% of the design and construction of the East Corridor Project;
- (c) 100% of the design and construction of the Gold Line Project;
- (d) 100% of the design and construction of 41st/Fox Street and Pecos Street stations; and
- (e) 100% of the design and construction of the Commuter Rail Maintenance Facility.

***Disadvantaged Business Enterprise or DBE means a Small Business Enterprise:***

- (a) that is at least 51% owned by one or more individuals who are Socially and Economically Disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more Socially and Economically Disadvantaged individuals;
- (b) whose management and daily operations are controlled by one or more of the Socially and Economically Disadvantaged individuals who owns it; and
- (c) that is:
  - (i) certified as a "Disadvantaged Business Enterprise" by either the Office of Certification of the Colorado Department of Certification (***CDOT-OC***) or the City and County of Denver Office of Economic Development (***CCD-OED***);
  - (ii) certified as a "Small Disadvantaged Business" or accepted into the HUBZone Program or the 8(a) Business Development Program, in each case by the United States Small Business Administration (the ***SBA***) and certified as a "Disadvantaged Business Enterprise" by CDOT-OC or CCD-OED; or
  - (iii) certified as a "Disadvantaged Business Enterprise" in any state other than the State of Colorado; provided that a DBE application has been submitted to and is pending with either CDOT-OC or CCD-OED and such application is subsequently approved.

***Initial Design/Build DBE/SBE Plan*** means the Design/Build DBE/SBE Plan submitted as part of the Concessionaire's Technical Proposal.

***O&M SBE Plan*** means a plan, prepared by or on behalf of the Concessionaire, that:

- (a) describes how the Concessionaire plans to satisfy the requirements of Sections 2 and 4 of this Part B of Attachment 15, including achieving the SBE O&M Goal, including a description of:

- (i) the services under the Agreement that will be subcontracted out to SBEs during the Operating Period and the total Dollar value of such services;
  - (ii) how such Subcontracts will be procured;
  - (iii) all business development initiatives, support services, mentoring programs, outreach and recruitment strategies and other similar initiatives relating to the SBE communities; and
  - (iv) strategies to implement and enforce compliance by Prime Contractors with the SBE O&M Goal; and
- (b) identifies those SBEs the Concessionaire intends to utilize during the relevant period and the Dollar value of each proposed SBE contract; and
  - (c) includes DBE/SBE Enclosures in respect of each of the SBEs identified in the plan (to the extent not already submitted with a previous version of the plan).

**Prime Contractor** means any Project Contractor or Subcontractor that contracts with a DBE or SBE for performance of the DBE Qualifying Work, the SBE Qualifying Work or the services to be provided during the Operating Period, as applicable.

**SBE Category** means each of the following:

- (a) SBE Category 1: SBEs with gross receipts less than \$1 Million;
- (b) SBE Category 2: SBEs with gross receipts between \$1 Million and \$5 Million;
- (c) SBE Category 3: SBEs with gross receipts between \$5 Million and \$10 Million; and
- (d) SBE Category 4: SBEs with gross receipts in excess of \$10 Million.

**SBE Design/Build Goals** has the meaning given to it in Section 3.1(c)(ii) of this Part B of Attachment 15.

**SBE Goals** means, collectively, the SBE Design/Build Goals and the SBE O&M Goal.

**SBE O&M Goal** has the meaning given to it in Section 4.1 of this Part B of Attachment 15.

**SBE Participation Report** has the meaning given to it in Section 4.4(a) of this Part B of Attachment 15.

**SBE Qualifying Work** means:

- (a) 100% of the design and construction of the NWES;
- (b) 100% of the design and construction of the DUS to CRMF; and
- (c) 100% of the installation of the DUS Systems, including the integration of the DUS Systems with the DUS Rail Segment.



**Small Business Enterprise** or **SBE** means a for-profit small business enterprise, as defined pursuant to section 3 of the Small Business Act and the Small Business Administration implementing regulations (13 CFR Part 121) that does not exceed the cap on average annual gross receipts specified in 49 CFR §26.65(b) and that is certified as a "Small Business Enterprise" by RTD.

**Small Business Opportunity Office** or **SBOO** means the RTD department responsible for administering the DBE and SBE programs.

**Socially and Economically Disadvantaged** has the meaning given to it by 49 CFR 26.67.

## **2. GENERAL REQUIREMENTS**

### **2.1 DBE and SBE Policy**

- (a) The Concessionaire shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement.
- (b) The Concessionaire shall comply with and implement applicable requirements of 49 CFR Part 26 in the award and administration of contracts and Subcontracts under this Agreement.
- (c) Failure by the Concessionaire to comply with or implement these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as RTD deems appropriate.
- (d) RTD's commitment to the DBE Goals and the SBE Goals is not intended to, and shall not be used as a justification to, discriminate against any qualified company or group of companies.

### **2.2 DBE/SBE Liaison Officer**

The Concessionaire shall designate a DBE/SBE Liaison Officer who shall be responsible for the following:

- (a) day-to-day operational components of the DBE Program and the SBE Program;
- (b) effectively responding to and reporting to the SBOO any DBE and SBE inquiries;
- (c) submitting executed DBE and SBE Subcontracts and any subsequent material amendments thereto to the SBOO;
- (d) interfacing with the SBOO regarding DBEs and SBEs issues and approvals; and
- (e) carrying out or implementing technical assistance activities so that the playing field is level for DBEs and SBEs.

The DBE/SBE Liaison Officer shall submit a written monthly report detailing the activities and documentation of good faith efforts of the previous month as well as submitting DBE Participation Reports and SBE Participation Reports and shall schedule monthly meetings with the SBOO to address any issues or concerns.

### 2.3 Prompt Payment of DBE and SBE Subcontractors

The Concessionaire shall ensure that:

- (a) each Prime Contractor shall pay its respective DBE and SBE Subcontractors any undisputed amount owed to such Subcontractor within 30 days of receipt by such Prime Contractor of a duly submitted invoice for payment, regardless of whether such Prime Contractor has been paid for such invoice;
- (b) approval of invoices is not unreasonably delayed and that invoices shall be either approved or rejected with written notice of deficiency or dispute to the payee Subcontractor within ten days of receipt of invoice by the Prime Contractor; and
- (c) each Prime Contractor makes prompt and full payment of any retainage kept by such Prime Contractor to its respective DBE or SBE Subcontractors within 30 days after such DBE's or SBE's work has been completed.

### 2.4 Defaulting DBE or SBE Subcontractors/Termination of Subcontracts

- (a) The Concessionaire shall notify the SBOO immediately of a DBE's or SBE's inability to perform and/or of the intent to obtain a substitute DBE or SBE, as applicable. The Concessionaire shall provide the SBOO with reasonable documentation of the defaulting DBE's or SBE's inability to perform or the basis for the request for substitution, as well as any good faith efforts to avoid such termination or substitution.
- (b) The Concessionaire shall make good faith efforts to engage another DBE or SBE, as applicable, to perform at least the equivalent amount of work. The proposed substitute DBE or SBE must receive prior approval from the SBOO prior to entering into a Subcontract with a Prime Contractor. The Concessionaire shall not and shall procure that no Prime Contractor shall perform the work of a substituted DBE or SBE without prior approval of the SBOO unless that Prime Contractor is itself a DBE or SBE Subcontractor.
- (c) The Concessionaire shall provide the relevant DBE/SBE Enclosures for each new DBE or SBE.

### 2.5 Good Faith Efforts

RTD will follow the procedures set forth in 49 CFR. 26.53 and Appendix A to 49 CFR Part 26 in determining whether the Concessionaire has demonstrated good faith efforts in meeting the DBE Goals and the SBE Goals.

## 2.6 Changes

The DBE Goals and the SBE Goals shall apply to the performance of all relevant obligations under this Agreement, including any Changes implemented pursuant to Section 36 (*Changes*) of the Agreement.

## 3. DESIGN/BUILD PERIOD REQUIREMENTS

### 3.1 Design Build Period Goals

During the Design/Build Period, the Concessionaire shall:

- (a) comply, and require that the Design/Build Contractor and the Design/Build Subcontractors (excluding the Rolling Stock Supplier and its Subcontractors) comply, with the requirements of 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs";
- (b) ensure that the Rolling Stock Supplier and its Subcontractors comply with the requirements of Section 23.67 of Subpart D to 49 CFR Part 26, "Participation by Minority Business Enterprises in Department of Transportation Programs", provide RTD with copies of all documentation transmitted to FTA in accordance therewith, and promptly notify RTD if the goals proposed by the Rolling Stock Supplier have been disapproved by FTA; and
- (c) meet:
  - (i) the following goals for DBE participation in the DBE Qualifying Work (the ***DBE Goals***):
    - (A) that at least 19% (calculated by Dollar value) of the DBE Qualifying Work (less the Dollar amount to be paid under the Rolling Stock Supply Contract) relating to design services and/or supplies, be performed by DBEs; and
    - (B) that at least 20% (calculated by Dollar value) of DBE Qualifying Work (less the Dollar amount to be paid under the Rolling Stock Supply Contract) relating to construction services and/or supplies, be performed by DBEs.
  - (ii) the following goals for SBE participation in the SBE Qualifying Work (the ***SBE Design/Build Goals***):
    - (A) that at least 19% (calculated by Dollar value) of the SBE Qualifying Work relating to design services and/or supplies, be performed by SBEs; and
    - (B) that at least 18% (calculated by Dollar value) of SBE Qualifying Work relating to construction services and/or supplies, be performed by SBEs; or

- (d) demonstrate that it has made good faith efforts to meet the DBE Goals or the SBE Design/Build Goals, as applicable.

### 3.2 Design/Build DBE/SBE Plan

- (a) The Concessionaire shall:
  - (i) upon occurrence of the earlier of the Early Work Effective Date or the Phase 1 Effective Date, implement the Initial Design/Build DBE/SBE Plan;
  - (ii) no later than 30 days after the earlier of the Early Work Effective Date or the Phase 1 Effective Date, enter into, and/or ensure that each Prime Contractor enters into Subcontracts or issues purchase orders to all DBEs and SBEs identified in the Initial Design/Build DBE/SBE Plan; and
  - (iii) within 30 days after their execution, forward electronic copies of any DBE or SBE Subcontracts or purchase orders entered into during the Design/Build Period to the SBOO.
- (b) No later than October 1 of each year during the Design/Build Period, the Concessionaire shall prepare and submit to RTD an updated Design/Build DBE/SBE Plan for the following period of two calendar years.

### 3.3 Distribution of SBE Design/Build Goals

The Concessionaire shall make good faith efforts to distribute:

- (a) the SBE Design/Build Goal referred to in Section 3.1(c)(ii)(A) among SBEs in the different SBE Categories as follows:
  - (i) SBE Category 1: 7%;
  - (ii) SBE Category 2: 5%;
  - (iii) SBE Category 3: 4%; and
  - (iv) SBE Category 4: 3%; and
- (b) the SBE Design/Build Goal referred to in Section 3.1(c)(ii)(B) among the SBE Categories as follows:
  - (i) SBE Category 1: 5%;
  - (ii) SBE Category 2: 5%;
  - (iii) SBE Category 3: 5%; and
  - (iv) SBE Category 4: 3%.
- (c) The Concessionaire may utilize a lower-value SBE Category firm to meet the requirement of a higher value SBE Category, but not vice versa. However, the Concessionaire may submit to the SBOO a proposal to meet the SBE Design/Build Goal

for a lower value SBE Category through the use of a joint venture comprising multiple lower-value SBE Category firms, notwithstanding that such joint venture may meet the criteria for a higher-value SBE Category. All such proposals are subject to the approval of the SBOO.

### 3.4 Reporting Requirements

- (a) The Concessionaire shall submit, and shall ensure that each Prime Contractor submits, at least monthly a participation report (a ***DBE/SBE Participation Report***) in the form set out in Annex 1 (*Form of DBE/SBE Participation Report*) to this Attachment 15. The Concessionaire shall submit each completed DBE/SBE Participation Report to RTD with its corresponding Monthly Progress Report.
- (b) The Concessionaire acknowledges that the SBOO has the right to independently confirm the information contained in the submitted DBE/SBE Participation Reports by soliciting such information from each DBE and SBE Subcontractor. The Concessionaire shall not attempt to dissuade any such DBE/SBE Subcontractor from disclosing any such information to the SBOO.
- (c) At the end of the Design/Build Period, the Concessionaire shall submit to RTD a summary of payments made to all DBEs and SBEs.

## 4. OPERATING PERIOD REQUIREMENTS

### 4.1 Operating Period Goals

During the Operating Period, the Concessionaire shall meet, or demonstrate that it has made good faith efforts to meet, the goal (the ***SBE O&M Goal***) that at least 17% (calculated by Dollar value) of the services to be performed under the Agreement during the Operating Period be performed by SBEs.

### 4.2 O&M SBE Plan

No later than October 1, 2014, and thereafter no later than October 1 of each year until the end of the Operating Period, the Concessionaire shall prepare and submit to RTD an O&M SBE Plan for the following period of two calendar years. The Concessionaire shall forward to the SBOO electronic copies of any DBE or SBE Subcontracts or purchase orders entered into during the Operating Period within 30 days after their execution.

### 4.3 Distribution of SBE O&M Goal

- (a) The Concessionaire shall make good faith efforts to distribute the SBE O&M Goal referred to in Section 4.1 among SBEs in the different SBE Categories as follows:
  - (i) SBE Category 1: 5%;
  - (ii) SBE Category 2: 5%;
  - (iii) SBE Category 3: 4%; and
  - (iv) SBE Category 4: 3%.

- (b) The Concessionaire may utilize a lower-value SBE Category firm to meet the requirement of a higher value SBE Category, but not vice versa. However, the Concessionaire may submit to the SBOO a proposal to meet the SBE O&M Goal for a lower value SBE Category through the use of a joint venture comprising multiple lower-value SBE Category firms, notwithstanding that such joint venture may meet the criteria for a higher-value SBE Category. All such proposals are subject to the approval of the SBOO.

#### 4.4 Reporting Requirements

- (a) The Concessionaire shall submit, and shall ensure that each Prime Contractor submits, at least monthly a participation report (an *SBE Participation Report*) in the form set out in Annex 1 (*Form of DBE/SBE Participation Report*) to this Attachment 15. The Concessionaire shall submit each completed SBE Participation Report to RTD with its corresponding Monthly Operating Report.
- (b) The Concessionaire acknowledges that the SBOO has the right to independently confirm the information contained in the submitted SBE Participation Reports by soliciting such information from each SBE Subcontractor. The Concessionaire shall not attempt to dissuade any such SBE Subcontractor from disclosing any such information to the SBOO.
- (c) Upon expiry of the Concession Period, the Concessionaire shall submit to RTD a summary of payments made to all SBEs.

ANNEX 1

FORM OF DBE/SBE PARTICIPATION REPORT

PRIME CONTRACTOR MONTHLY REPORT OF DBE/SBE PARTICIPATION Form E Report

DENVER REGIONAL TRANSPORTATION DISTRICT



CONTRACT INFORMATION:

Original Contract Value:
Change Orders Value:
Final Contract Value:
Total Payments Received To Date:
Start Date:
Payments Received This Month:
Completion Date:

Contract Duration:
Project Ref. No.
Report for Month of:
Name and Location of Project:
Name and Address of Prime Contractor:

Respond "Yes" or "No" to the Questions Below:

Did your firm or an affiliate rent or lease equipment to a DBE/SBE?
Did any DBE/SBE utilize employees (or former employees) of your firm or an affiliate?
Did any DBE/SBE subcontract any portion of its work to a non-DBE/SBE since the last report firm?
Has the scope of work or subcontract amount changed for any DBE/SBE since the last report?

Table with columns: Name of Subcontractor, Project Task, CERT #, Original Contract Amount, Original Contract +/- Amount C.O., Payment This Month, Previous Payments, Total Payments, Pending C.O.'s Amount and Date, Overall Work Completed %, Contract P.O. Submitted

COMMENTS

Prime Contractor Compliance Officer:

Signature:

By signing this form, I personally and on behalf of the contractor affirm that the information presented in this document is truthful, accurate, complete and not misleading.

Telephone:

Date:

SEND COMPLETED FORM TO:
Regional Transportation District - 1600 Blake Street, Denver, Colorado 80202
If You Need Assistance in Filing Out This Form, Please Contact Kern Herdin at (303) 299-2111

**ANNEX 2 – DBE/SBE ENCLOSURES**

**PART I – SCHEDULE OF DBE/SBE SUBCONTRACTOR PARTICIPATION**

NAME OF CONCESSIONAIRE: Denver Transit Partners, LLC

Regarding: RTD FasTracks Contract No. 18FH012 for the design, construction, financing, operation and maintenance of the Eagle Project.

Total cost of the DBE/SBE Qualifying Work: US\$ \_\_\_\_\_

NAME AND ADDRESS OF [DBE/SBE]	TYPE OF WORK (ELECTRICAL, PAVING, ETC.) AND CONTRACT ITEMS OR PART THEREOF TO BE PERFORMED BY [DBE/SBE]	PROJECTED START & COMPLETION DATES FOR [DBE/SBE]	AGREED PRICE TO BE PAID TO [DBE/SBE]

1. A current [DBE/SBE] certification for each listed [DBE/SBE] must accompany this enclosure. Failure to provide proof of current [DBE/SBE] certification for any or all listed [DBEs/SBEs] will eliminate such listed [DBE/SBE]'s participation, and work performed by such DBE/SBE will not count towards satisfaction of the [DBE/SBE] Goals. If additional pages are required to list all contracted [DBE/SBE], photocopy this enclosure as required to make a complete list.

2. Contracts with DBEs for materials or supplies will be counted toward the DBE Goals as follows:

- (i) materials or supplies obtained from a DBE manufacturer will be counted at 100% toward the DBE Goals; and
- (ii) materials or supplies obtained from a DBE regular dealer will be counted at 60% toward the DBE Goals. Please refer to 49 CFR §26.55 for specifics with respect to how DBE participation is counted toward DBE Goals.



**PART II – LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR**

Regarding: Contract No. 18FH012 for the design, construction, financing, operation and maintenance of the Eagle Project.

The undersigned Denver Transit Partners, LLC (the **Contractor**) intends to engage the undersigned [DBE/SBE] to perform work in connection with the Eagle Project pursuant to a contract (the **[DBE/SBE] Contract**) between the Contractor and the [DBE/SBE] as [*check one*]:

\_\_\_\_\_ an individual                      \_\_\_\_\_ a corporation  
 \_\_\_\_\_ a partnership                      \_\_\_\_\_ a joint venture

The [DBE/SBE] status of the undersigned [DBE/SBE] is confirmed on the attached schedule of [DBE/SBE] participation and represents a company that is certified as of the date on which the [DBE/SBE] Contract is executed.

<b>Item</b>	<b>Projected Commencement Date</b>	<b>Projected Completion Date</b>	<b>COST</b>

\_\_\_\_\_ % of the Dollar value of the [DBE/SBE] Contract will be sublet and/or awarded to non-[DBE/SBE] contractors and/or non-[DBE/SBE] suppliers.

NAME OF CONTRACTOR		NAME OF [DBE/SBE]	
SIGNATURE		SIGNATURE	
TITLE	DATE	TITLE	DATE

**PART III – SOLICITATION STATISTICS**

RTD is required to create and maintain bidder statistics for all firms bidding on prime contracts and bidding or quoting Subcontracts on USDOT-assisted projects per 49 CFR Part 26.11. The Concessionaire is required to make copies of this form, send a copy with their initial contact to each Subcontractor (both DBEs and SBEs and non-DBEs and non-SBEs) and require each Subcontractor to return a completed form with their Subcontract bid to the Concessionaire. The Concessionaire must include these completed forms with each submission of the DBE/SBE Design/Build Plan and the O&M SBE Plan, as applicable.

Firm Name: \_\_\_\_\_

Firm Address (Office Reporting): \_\_\_\_\_

Status as a DBE or Non-DBE (check one):

DBE \_\_\_\_\_ Non-DBE SBE \_\_\_\_\_ Neither DBE nor SBE \_\_\_\_\_

Annual Gross Receipts of the Firm: (check one):

U.S.\$0 to U.S.\$500,000 \_\_\_\_\_ U.S.\$500,000 to U.S.\$1,000,000 \_\_\_\_\_ U.S.\$1 Million to U.S.\$5 Million \_\_\_\_\_

U.S.\$5 Million to U.S.\$10 Million \_\_\_\_\_ U.S.\$10 Million to U.S.\$20.41 Million \_\_\_\_\_ Above U.S.\$20.41 Million \_\_\_\_\_

Age of the firm: \_\_\_\_\_

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

Name: \_\_\_\_\_

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

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

**EMPLOYER CERTIFICATION OF WORKFORCE**

The undersigned certifies that he/she is legally authorized to make the statements and representations contained in this report and that the statements and representations contained herein are true and correct to the best of his/her knowledge and belief.

Firm Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date of Execution: \_\_\_\_\_

Please note that this data may be obtained by visual survey or post-employment records. Neither visual surveys nor post-employment records are prohibited by Federal, State or local law. All specified data are required to be filled in by law. Current utilization as of \_\_\_\_\_.

Job Categories	Total Employees in Establishment			M = Male								F = Female			
	Total Employees Including Minorities	Total Male Employees Including Minorities	Total Female Employees Including Minorities	Black Americans		Hispanic Americans		Native Americans		Asian-Pacific Americans		Subcontinent Asian Americans		Other	
				M	F	M	F	M	F	M	F	M	F	M	F
Officials & Managers															
Professionals															
Technicians															
Sales															
Office & Clerical															
Craft Workers (skilled)															
Operatives (semi-skilled)															
Laborers (unskilled)															
Service Workers															
<b>TOTAL</b>															

**DESCRIPTION OF JOB CATEGORIES**

*Officials and Managers* – Occupations requiring administrative personnel who set board policies, exercise full responsibility for execution of these policies, and individual departments or special phases of the operations.

*Professionals* – Occupations requiring either college education or experience of such kind and amount as to provide a comparable background.

*Technicians* – Occupations requiring a combination of specific scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training.

*Sales* – Occupations engaging wholly or primarily in selling.

*Office and clerical* – Includes all clerical-type work, regardless of level of difficulty, where the activities are predominately non-manual though some manual work directly involved with altering or transporting the products is included.

*Craft Worker (skilled)* – Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercises considerable independent judgment and usually requires an extensive period of training.

*Operatives (semi-skilled)* – Workers who operate machines or processing equipment or perform other factory-related duties of intermediate skill level which can be mastered in a few weeks and require only limited training.

*Laborers (unskilled)* – Workers in manual occupations which generally require no special training perform rudimentary duties that may be learned in a few days and require the application of little or no independent judgment.

*Service Workers* – Workers in both protective and unprotective service occupations.

**RACE/ETHNIC IDENTIFICATION**

*White (not Hispanic origin)* – All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East

*Black Americans (not Hispanic origin)* – All persons having origins in any of the Black racial groups of Africa

*Hispanic Americans* – All persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese

culture or origin, regardless of race

*Asian-Pacific Americans* – All persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong

*Subcontinent Asian Americans* – All persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka

*Native American* – All persons having origins in any of the original peoples of North America, including American Indians, Eskimos, Aleuts, or Native Hawaiians

**PART IV – SMALL BUSINESS OUTREACH**

As part of RTD's ongoing outreach activities to the Denver metro small business community, it is our goal to identify and to establish a relationship with the small business outreach programs sponsored by the prime and subcontractors we partner with.

The prime and all contracted subcontractors are requested to provide the following information pertaining to their current SBE and DBE outreach efforts – additional sheets may be used if necessary:

RTD Contract Name and Number:

Contract No. 18FH012 for the design, construction, financing, operation and maintenance of the Eagle Project (the *Contract*).

Proposer:

\_\_\_\_\_

Subcontractor – if applicable:

\_\_\_\_\_

Small Business Outreach Contact (if none, list contact for the Contract):

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Website: \_\_\_\_\_

Currently Sponsored Small Business Outreach Activities:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

How can RTD assist you in your current small business outreach efforts?

\_\_\_\_\_

\_\_\_\_\_

Would you be interested becoming involved in current and future RTD-sponsored outreach activities and committees:  Yes  No

If so, how? \_\_\_\_\_

\_\_\_\_\_

**PART V – DBE/SBE UNAVAILABILITY CERTIFICATION**

I, \_\_\_\_\_, \_\_\_\_\_,  
 Name Title

of \_\_\_\_\_, certify that Denver Transit Partners, LLC made the following efforts to meet the [DBE/SBE] Goals on Regional Transportation District Contract No. 18FH012 for the design, construction, financing, operation and maintenance of the Eagle Project:

*[please attach any additional efforts that do not fit on this form]*

- A Concessionaire representative attended the pre-bid meeting. Yes \_\_\_\_\_ No \_\_\_\_\_
- Newspaper Advertisement Log: (attach copies of ads)

Newspaper/Publication	Type of Publication Minority/General/Trade	Dates of Advertisement

- Selected portions of the work to be performed by [DBEs/SBEs]

Work Categories	Type of Bid (Subcontractor or Supplier)	Concessionaire's Estimated Budget	Additional Comments

- Made efforts to assist interested [DBEs/SBEs] in obtaining bonding, lines of credit, insurance or any necessary equipment, supplies, materials, etc.
- *[List any specific offers made by Concessionaire]*

- Solicited the following [DBEs/SBEs]

Date	Name of DBE/	Contact Person	Phone #	Work Category



Contacted	SBE Firm			

- Followed up with initial contacts

Date	Name of [DBE/SBE]	Phone #	Bidding (Yes or No)	Additional Comments

- Contacted the following other agencies, organizations in recruitment of [DBEs/SBEs] including RTD:

Date	Organization	Phone #

As shown by the documentation provided to RTD, we feel that we have made good faith effort to attain the [DBE/SBE] Goals.

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

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