NEW ISSUE
BOOK-ENTRY-ONLY

RATINGS:
Moody's: "Baa3"
Fitch: "BBB-"

In the opinion of Sherman & Howard L.L.C., Bond Counsel, assuming continuous compliance with certain covenants described herein, interest on the Series 2010 Bonds, except for interest on any Series 2010 Bond for any period during which it is held by a "substantial user" of the facilities financed with the Series 2010 Bonds or a "related person," as such terms are used in Section 147(a) of the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds (the "Tax Code"), is excluded from (a) gross income under federal income tax laws pursuant to Section 103 of the Tax Code, (b) alternative minimum taxable income, as defined in Section 55(b)(2) of the Tax Code, and (c) Colorado taxable income and Colorado alternative minimum taxable income under Colorado income tax laws in effect on the date of delivery of the Series 2010 Bonds as described herein. See "TAX MATTERS" herein.

$397,835,000
REGIONAL TRANSPORTATION DISTRICT
(COLORADO)
TAX-EXEMPT PRIVATE ACTIVITY BONDS
(DENVER TRANSIT PARTNERS EAGLE P3 PROJECT), SERIES 2010

Dated: Date of Delivery **Due:** as shown on inside cover

The Regional Transportation District (Colorado) Tax-Exempt Private Activity Bonds (Denver Transit Partners Eagle P3 Project), Series 2010 (the "Series 2010 Bonds"), are being issued by the Regional Transportation District (the "District", and in its capacity as the issuer of the Bonds, the "Issuer"), a public body politic and corporate and a political subdivision of the State of Colorado (the "State"), pursuant to an Indenture of Trust, to be dated as of August ,1 2010 (the "Indenture") between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The proceeds of the Series 2010 Bonds are being loaned to Denver Transit Partners, LLC, a Delaware limited liability company (the "Company"), to: (a) pay a portion of the costs of designing and constructing the Eagle P3 Project described herein (the "Project"); (b) pay a portion of the interest to accrue on the Series 2010 Bonds during construction of the Project; (c) fund a debt service reserve account for the Series 2010 Bonds; (d) fund a contingency account available to be used by the Company to pay certain costs resulting from changes in law during construction and operation of the Project; and (e) pay certain costs of issuing the Series 2010 Bonds. Costs of the Project not funded with proceeds of the Series 2010 Bonds, including a portion of the interest to accrue on the Series 2010 Bonds during construction, are to be funded from the Construction Payments and Service Payments to be made by the District to the Company under the Concession and Lease Agreement, dated July 9, 2010, as amended on July 22, 2010 (and as further amended, supplemented or otherwise modified from time to time, the "Concession Agreement"), between the Company and the District, from contributions from the Equity Participants and from interest earnings.

The Project is part of the District's FasTracks Plan to expand mass transit in the Denver metropolitan area and consists of approximately 35 miles of new commuter rail service, including service connecting downtown Denver with the Denver International Airport. The Project is being developed pursuant to the Concession Agreement under which the Company has agreed to design, construct, finance, operate and maintain the Project in return for payments by the District to the Company in the form of Construction Payments and Service Payments. The District has agreed to make monthly Construction Payments to the Company during the Design Build Period of the Project and, commencing with the beginning of revenue service of the Project, to make monthly Service Payments to the Company. Payment of both Construction Payments and Service Payments will be subject to satisfaction of various conditions set forth in the Concession Agreement. Construction Payments are expected to be funded from federal grants and from local funds available to the District and are subject to annual appropriation by the District. Service Payments have two components. One portion, for which no appropriation will be required, will be secured by a subordinate pledge of the District's sales tax revenues and is structured to exceed scheduled principal of and interest on the Bonds. The second portion is structured to cover operations and maintenance costs of the Project and will be subject to annual appropriation by the District.

All of the Company's rights under the Concession Agreement and under the other Material Project Contracts described herein, together with the other Security Interests created under the Security Documents for the benefit of the Trustee on behalf of the Owners of the Bonds, form part of the Trust Estate pledged and assigned to the Trustee as security for the Company's obligation under the Loan Agreement, described below, to make payments to the Trustee equal to the amounts coming due on the Series 2010 Bonds.

Interest on the Series 2010 Bonds from their date of delivery is payable semi-annually on each January 15 and July 15, commencing on January 15, 2011, at the rates shown on the inside cover page. The Series 2010 Bonds are subject to optional, mandatory and extraordinary mandatory redemption prior to maturity as described herein.

The Series 2010 Bonds are being issued as fully registered bonds in denominations of $5,000 and integral multiples thereof, and, when issued, the Series 2010 Bonds will be registered in the name of CEDE & Co., as nominee for The Depository Trust Company of New York ("DTC"). DTC will act as securities depository for the Series 2010 Bonds. Purchases of beneficial interests in the Series 2010 Bonds will be made in book-entry form only, and purchasers will not receive certificates representing their interests in the Series 2010 Bonds except as described herein.

The Series 2010 Bonds are special, limited obligations of the Issuer payable solely from payments received from the Company pursuant to the Loan Agreement between the Issuer and the Company (the "Loan Agreement"). Except for revenues provided pursuant to the Loan Agreement as described in the following sentence, the Owners of the Series 2010 Bonds may not look to any revenues of the Issuer for repayment of the Series 2010 Bonds. The only sources of repayment of the Series 2010 Bonds are revenues provided by the Company to the Issuer pursuant to the Loan Agreement and the Security Interests that are part of the Trust Estate. The Series 2010 Bonds will not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State.

The Series 2010 Bonds are offered when, as and if issued and delivered and accepted by the Underwriters and subject to receipt of the approving legal opinion of Sherman & Howard L.L.C., Denver, Colorado, as Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the District by its General Counsel, Marla Lien, Esq.; for the Company by its counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York, and Kutak Rock, LLP, Denver, Colorado; and for the Underwriters by their counsel, Mayer Brown LLP, Chicago, Illinois. It is expected that delivery of the Series 2010 Bonds will be made through the facilities of DTC on or about August 12, 2010.

Barclays Capital **BofA Merrill Lynch**

August 4, 2010

$397,835,000
REGIONAL TRANSPORTATION DISTRICT
(COLORADO)
TAX-EXEMPT PRIVATE ACTIVITY BONDS
(DENVER TRANSIT PARTNERS EAGLE P3 PROJECT), SERIES 2010

Series 2010 Serial Bonds

Maturity Date	Principal Amount	Interest Rate	Yield	CUSIP+
July 15, 2019	$ 4,600,000	5.250%	4.850%	759151AB9
January 15, 2020	4,835,000	5.250	5.000	759151AC7
July 15, 2020	4,895,000	5.000	5.000	759151AD5
January 15, 2021	5,150,000	5.000	5.100	759151AE3
July 15, 2021	5,210,000	5.000	5.100	759151AF0
January 15, 2022	5,485,000	5.000	5.250	759151AG8
July 15, 2022	5,020,000	5.000	5.250	759151AH6
January 15, 2023	5,335,000	5.125	5.350	759151AJ2
July 15, 2023	5,670,000	5.125	5.350	759151AK9
January 15, 2024	6,025,000	5.250	5.450	759151AL7
July 15, 2024	6,400,000	5.250	5.450	759151AM5
January 15, 2025	6,800,000	5.375	5.550	759151AQ6
July 15, 2025	7,225,000	5.375	5.550	759151AR4
January 15, 2026	7,675,000	6.000	5.600±	759151AS2

$62,490,000 6.50% Series 2010 Term Bonds due January 15, 2030 Priced to Yield 5.90%±
CUSIP+ Number 759151AN3

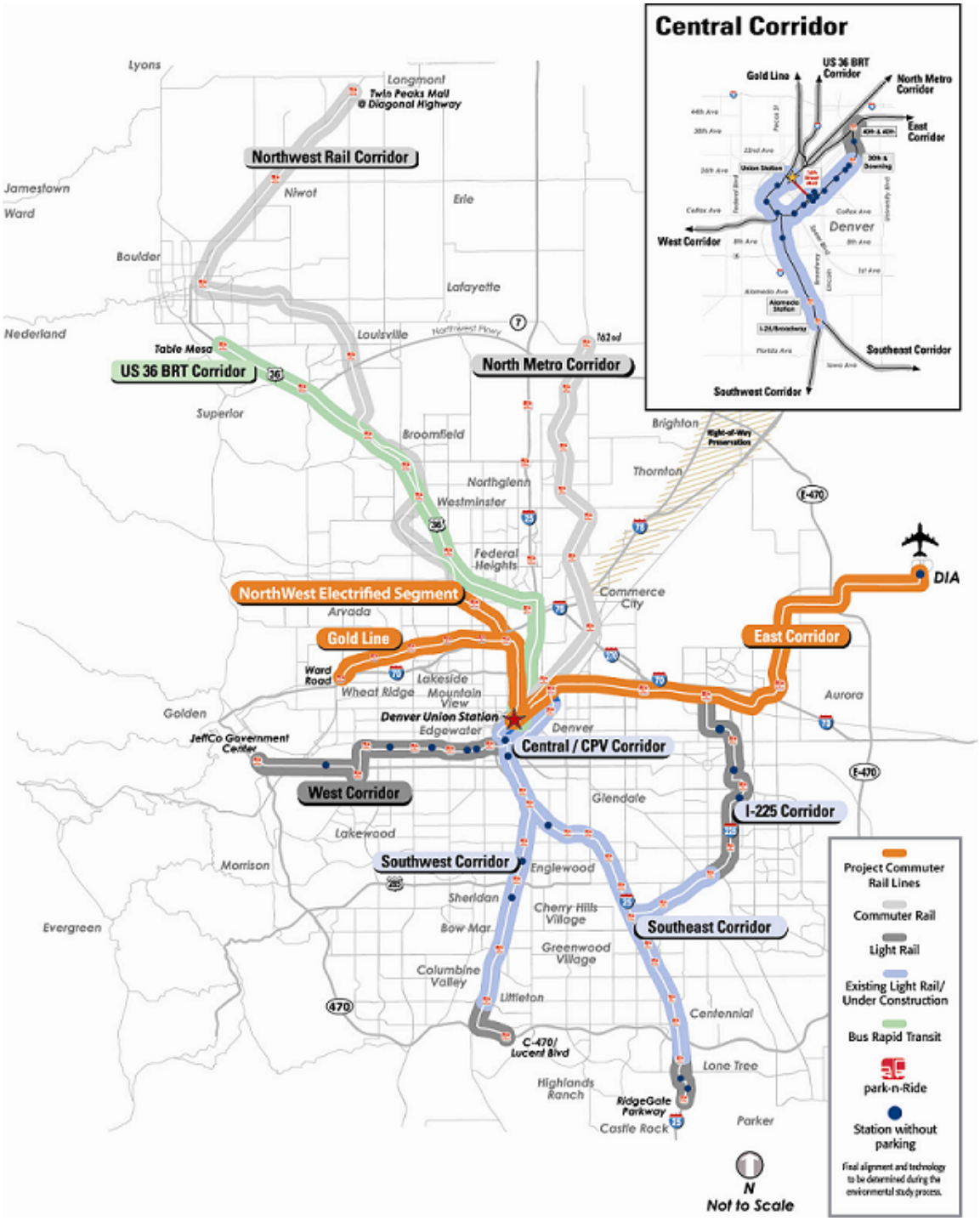
$79,970,000 6.00% Series 2010 Term Bonds due January 15, 2034 Priced to Yield 6.08%
CUSIP+ Number 759151AP8

$175,050,000 6.00% Series 2010 Term Bonds due January 15, 2041 Priced to Yield 6.13%
CUSIP+ Number 759151AA1

± Priced to the July 15, 2020 optional redemption date.

+ Copyright 2010, American Bankers Association. CUSIP® is a registered trademark of the American Bankers Association. The CUSIP data herein are provided by CUSIP Global Services, managed on behalf of the American Bankers Association by Standard and Poor's. The CUSIP numbers are not intended to create a database and do not serve in any way as a substitute for CUSIP Service. CUSIP numbers have been assigned by an independent company not affiliated with the Issuer or the Company and are provided solely for convenience and reference. The CUSIP numbers for the Series 2010 Bonds of a specific maturity are subject to change after the issuance of the Series 2010 Bonds. None of the Issuer, the Company or the Underwriters takes any responsibility for the accuracy of such CUSIP numbers.

District Network Overview



Project Map

Rolling Stock Rendering

No dealer, broker, salesman or other person has been authorized by the Company, the Issuer, the Underwriters or any other person described herein to give any information or to make any representations, other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by the Company, the Issuer or the Underwriters or any such other person. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be (i) any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale or (ii) any offer, solicitation or sale to any person to whom it is unlawful to make such offer, solicitation or sale. The information set forth herein concerning The Depository Trust Company, New York, New York ("DTC"), has been furnished by DTC, and no representation is made by the Company, the Issuer or the Underwriters as to the completeness or accuracy of such information. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sales made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Company, the Equity Participants or DTC (or any other information) since the date hereof.

The following sentence is provided by the Underwriters for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under federal securities laws as applied to the facts and circumstances of the transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

The Issuer has not prepared or assisted in the preparation of this Official Statement except the statements made under "PROJECT PARTICIPANTS—The Regional Transportation District," NO LITIGATION—The Issuer" and APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT" herein, and, except as aforesaid, the Issuer is not responsible for any statements made in this Official Statement. Except for the execution and delivery of documents required to affect the issuance of the Series 2010 Bonds, the Issuer has not otherwise assisted in the public offer, sale or distribution of the Series 2010 Bonds. Accordingly, except as aforesaid, the Issuer disclaims responsibility for the disclosures set forth in the Official Statement or otherwise made in connection with the offer, sale and distribution of the Series 2010 Bonds.

The Series 2010 Bonds have not been registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended. Neither the Securities and Exchange Commission nor any other state securities commission has approved or disapproved of the Series 2010 Bonds or passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

In making an investment decision, investors must rely on their own examination of the Company and the Project and the terms of the offering, including the merits and risks involved. None of the Company, the District or the Underwriters or any of their representatives or affiliates is making any representation regarding the legality of an investment by you under applicable investment or similar laws. You should not construe anything in this Official Statement as legal, business or tax advice, and you should consult with your own advisors as to legal, tax, business, financial and related aspects of the Series 2010 Bonds.

The statements contained in this Official Statement that are not purely historical are forward-looking statements. **Forward looking-statements can be identified by the use of forward-looking words, such as "believes," "expects," "may," "will," "should," "seeks," "approximately," "intends," "plans," "estimates" and "anticipates" or the negative terms or other comparable words, or by discussions of strategy, plans or intentions**. **Examples of forward-looking statements are statements that concern the Company's or the Project's future revenues, costs and liquidity**. **The forward-looking statements contained herein are based on the Company's expectations and are necessarily dependent upon assumptions, estimates and data that they believe are reasonable as of the date made but that may be incorrect, incomplete or imprecise or reflective of actual results**. **The Company does not undertake to provide any new forward-looking statements, even if it becomes clear that the forward-looking statements contained herein will not be realized**.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2010 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. **SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME**.

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SUMMARY

This Summary is not a complete description of the Series 2010 Bonds and the Project and does not contain all of the information you should consider before making any investment decision with respect to the Series 2010 Bonds. You should read the more detailed information appearing or incorporated by reference in this Official Statement and the documents summarized or described herein in their entirety for a more complete understanding about the Project, the offering and the terms, and security and sources of payment for the Series 2010 Bonds. Terms used in this Summary and not defined in the Summary are defined in APPENDIX B—"DEFINITIONS OF TERMS."

THE SERIES 2010 BONDS

Bonds Offered ..... Regional Transportation District Tax-Exempt Private Activity Bonds (Denver Transit Partners Eagle P3 Project), Series 2010 (the "Series 2010 Bonds") in the aggregate principal amount of $397,835,000. The Series 2010 Bonds are being issued as fully registered bonds in denominations of $5,000 and integral multiples thereof. See "THE SERIES 2010 BONDS."

Interest..... The Series 2010 Bonds will bear interest at the rates shown on the inside cover page of this Official Statement. Interest on the Series 2010 Bonds will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Interest Payment Dates ..... Interest will be payable semi-annually on January 15 and July 15 of each year, commencing on January 15, 2011, until maturity or prior redemption.

Maturity Dates..... The Series 2010 Bonds will mature on the semi-annual maturity dates set forth on the inside cover of this Official Statement.

Optional Redemption ..... On July 15, 2020 and on any date thereafter, the Issuer, at the direction of the Company, may redeem the Series 2010 Bonds prior to maturity, in whole or in part, and if in part by lot within the maturity or maturities selected by the Company, at a redemption price of par plus accrued interest to, but not including, the dated fixed for redemption. See "THE SERIES 2010 BONDS—Redemption—Optional Redemption."

Mandatory Redemption ..... The Series 2010 Bonds that are Series 2010 Term Bonds will be subject to mandatory sinking fund redemption prior to maturity on the dates set forth herein at a redemption price of par plus accrued interest to, but not including, the date fixed for redemption. See "THE SERIES 2010 BONDS—Redemption—Mandatory Sinking Fund Redemption."

Extraordinary Redemption..... The Series 2010 Bonds are subject to extraordinary mandatory redemption as described under "THE SERIES 2010 BONDS—Redemption—Extraordinary Mandatory Redemption."

Risk Factors ..... A number of risks could affect the payments to be made on the Series 2010 Bonds and the market value of the Series 2010 Bonds. See "RISK FACTORS" for a discussion of some of these risks.

THE DISTRICT AND THE PROJECT

The District..... The District is a public body corporate and politic and a political subdivision of the State of Colorado and is responsible for developing, maintaining and operating a mass transportation system within its boundaries. The District's service area encompasses portions of an eight-county region, including the Denver metropolitan area. For additional information about the District, see APPENDIX A—"REGIONAL TRANSPORTATION DISTRICT."

As described herein, the District has two separate and distinct responsibilities in connection with the financing and implementation of the Project: (a) as a party to the Concession Agreement and (b) as the "conduit issuer" of the Series 2010 Bonds. When acting in its capacity as the issuer of the Series 2010 Bonds, which are special, limited obligations of the District issued for the benefit of the Company, the District is referred to in this Official Statement as the "Issuer."

The Project..... The Project is part of the District's mass transit expansion plan for the Denver metropolitan area known as FasTracks, which includes approximately 122 miles of new commuter and light rail transit service, as well as other transit improvements. The Project consists of the design, construction, financing, operation and maintenance of approximately 35 miles of new commuter rail transit lines, including a new line connecting Denver International Airport to Denver Union Station, and also includes the design and construction of a commuter rail maintenance facility ("CRMF") and systems and track improvements to Denver Union Station. The Project includes the procurement of rolling stock for the new commuter rail service and the operation and maintenance of the Project through December 2044. The District considers the Project to be an essential part of its efforts to reduce congestion and to support economic development in the Denver metropolitan area. For additional information, see "THE PROJECT."

Project Costs ..... Total cost of the Project is currently estimated to be $1.64 billion. Project Costs are to be funded from proceeds of the Series 2010 Bonds, Equity Contributions from Equity Participants, Construction Payments and Service Payments received by the Company from the District under the Concession Agreement and interest earnings. If the scope of the Project changes, additional funds will be needed, and the financing for the Project will be adjusted accordingly. See "FINANCING FOR THE PROJECT."

The Company..... Denver Transit Partners, LLC (the "Company"), a Delaware limited liability company, has entered into the Concession Agreement with the District for the purpose of the design, procurement, construction, financing, maintenance and operation of the Project. The membership interests of Denver Transit Holdings, LLC ("DTH"), a Delaware limited liability company that owns all of the membership interests in the Company, are currently indirectly held by (a) Fluor Enterprises, Inc. ("Fluor") and (b) MIHI LLC ("Macquarie"). Macquarie intends to sell its membership interest to Uberior Infrastructure Investments (No 4) USA LLC, an Affiliate of Uberior Infrastructure Investments (No. 4) Limited, and Denver Rail (Eagle) Holdings Inc., a 100% subsidiary of John Laing Investments Ltd., on or about the Closing Date for the

	Series 2010 Bonds. See "PROJECT PARTICIPANTS—Equity Participants."
Construction.....	Substantially all of the construction work relating to the Project is being undertaken by Denver Transit Systems, LLC, a special-purpose entity formed by Fluor and Balfour Beatty Rail Inc. (the "Design Build Contractor") pursuant to the "fixed-price/fixed date" Design Build Contract described herein. Fluor and Balfour Beatty Rail Inc. both have experience in design-build contracting for large transportation infrastructure projects. Pursuant to the Design Build Contract, the Design Build Contractor will also be responsible for procurement of the rolling stock, the CRMF and the integration of all components. To guarantee performance of its obligations, the Design Build Contractor will provide the Company with a performance security package that includes: joint and several performance guaranties from Fluor Corporation and Balfour Beatty, LLC (and a financial guaranty from Balfour Beatty plc); a performance bond for certain of the performance obligations of the Design Build Contractor; a letter of credit initially equal to 6% of the contract sum, reduced to 3% after commencement of revenue service; a warranty bond available through an 18-month post-completion warranty period; and contractual obligations to pay liquidated damages that are structured to provide the Company with liquidity to fund costs associated with construction delays and delays associated with procurement of the Rolling Stock. Fluor Corporation is currently rated A3/A-/A- by Moody's, Standard & Poor's and Fitch, respectively. See "THE PROJECT—Implementation of the Project," "THE PRINCIPAL PROJECT AGREEMENTS—The Design Build Contract" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT."
Rolling Stock.....	The Design Build Contractor has contracted with Hyundai Rotem USA Corp. (the "Rolling Stock Supplier") to manufacture rolling stock for the Project. Rolling stock with substantially similar specifications is currently being manufactured by the Rolling Stock Supplier for use by the Southeastern Pennsylvania Transportation Authority. See "THE PROJECT" and "THE PRINCIPAL PROJECT AGREEMENTS—Rolling Stock Supply Contract" and APPENDIX J—"TECHNICAL ADVISOR REPORT."
Operations.....	The Project is to be operated and maintained by Denver Transit Operators, LLC, a special-purpose entity formed by Fluor, Balfour Beatty Rail Inc. and Alternate Concepts Inc. (the "O&M Contractor") pursuant to an Operations and Maintenance Contract (the "O&M Contract") that has the same duration as the Concession Agreement. The O&M Contract requires the O&M Contractor to undertake all operations and maintenance obligations of the Company, including all renewal works under the Concession Agreement for a fixed price. As described under "PAYMENTS UNDER THE CONCESSION AGREEMENT—Service Payments," pursuant to the Concession Agreement, Service Payments to the Company are expected at all times to be sufficient to enable the Company to pay the administrative fees and expenses, Project Costs not paid from Construction Payments and Equity Contributions, O&M Expenditures, amounts payable by the Company under the Loan Agreement (equal to debt service payable on the Series 2010 Bonds) and a return on equity. Under the Concession

Agreement, Service Payments may be subject to reduction if the Company fails to satisfy specified performance standards. The current O&M Contract is structured to pass through to the O&M Contractor any performance-based reductions in Service Payments as a reduction in the amounts payable by the Company to the O&M Contractor. Any such reduction would reduce the amount of the Company's O&M Expenditures then due. Such pass-through provisions are sometimes referred to herein as "back-to-back" provisions. To guarantee performance of the O&M Contractor's obligations, the O&M Contractor is providing the Company a performance security package that includes: joint and several payment and performance guaranties from Fluor Corporation and Balfour Beatty, LLC (and a financial guaranty from Balfour Beatty plc); an on-demand letter of credit covering certain payment and performance obligations; and a separate letter of credit covering the cost of renewal works in the event actual costs exceed budgeted amounts and reserves. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Service Payments" and APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT."

CONCESSION AGREEMENT

Concession Agreement ..... The Concession Agreement provides for the Company to design, construct, finance, operate and maintain the Project and, subject to the terms of the Concession Agreement, for the District to make Construction Payments, Service Payments and, following various termination events, to make termination payments to the Company. See "PAYMENTS UNDER THE CONCESSION AGREEMENT."

Construction Payments ..... Pursuant to the Concession Agreement, the District is required to pay more than $1 billion in Construction Payments during the Design Build Period that will be applied by the Company to pay Project Costs. Pursuant to the Concession Agreement, the Construction Payments are RTD Appropriation Obligations subject to annual appropriation by the District. The District has applied for federal grants and expects to use the proceeds of the federal grants and available local funds to make substantially all of these Construction Payments. See "FINANCING FOR THE PROJECT."

Service Payments ..... The Company expects to receive Service Payments commencing when construction is completed with respect to any Commuter Rail Service of the Project and continuing for the term of the Concession Agreement. Service Payments have two components: the TABOR Portion, structured to exceed scheduled debt service on the Series 2010 Bonds, and the RTD Appropriation Obligation, which is structured to cover operations and maintenance costs of the Project. See "INTRODUCTION—The Concession Agreement" and "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "—RTD Appropriation Obligations."

The Concession Agreement provides that Service Payments are subject to reduction if the operations of the System result in the Company's failure to satisfy specified performance standards. (These standards are defined in the Concession Agreement as Performance Deductions and serve to reduce the Availability Factor.) The Availability Factor, as calculated under the Concession Agreement, should not be less than

	80%, and the Performance Deduction Percentage, as calculated under the Concession Agreement, should not be greater than 5%, with the result that the application of both the Availability Factor and Performance Deductions should not result in Service Payments being reduced by more than approximately 25%. The Concession Agreement also provides that deductions due to the assessment of Performance Deductions and the Availability Factor are first applied to the portion of the Service Payments that constitutes an RTD Appropriation Obligation before being applied to the TABOR Portion of the Service Payments. Since the TABOR Portion, as currently in effect, is calculated to be less than 75% of the Service Payment, the payment of the TABOR Portion, as currently in effect, should not be reduced by the application of the Availability Factor and Performance Deductions. However, an Availability Ratio of less than 80% (and 85% in six or more months of any eight-month period) in certain circumstances can result in a Concessionaire Termination Event. See "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT." The Company expects that the TABOR Portion paid to the Company in any year will be greater than the amount of debt service payable on the Series 2010 Bonds in that year. Payment by the District of the TABOR Portion is secured by the District's subordinate pledge of the RTD Sales Tax Revenues and is not subject to annual appropriation by the District. The RTD Appropriation Obligation is payable from available funds of the District and is subject to annual appropriation by the District. The Concession Agreement provides that any TABOR Portion that is not paid due to insufficiency of RTD Sales Tax Revenues also constitutes an RTD Appropriation Obligation, payable from available funds of the District and subject to annual appropriation by the District. Except with respect to RTD Appropriation Obligations, failure to pay amounts when due (after 10 days) results in an RTD Termination Event under the Concession Agreement. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "—RTD Appropriation Obligations."
Relief Events.....	Pursuant to the Concession Agreement, the Company will be entitled to schedule relief (including, among other relief, the postponement of certain target dates and the avoidance of Performance Deductions or impact to certain Availability Ratios) and compensation for certain costs actually incurred as a result of a Relief Event (including any increase in costs as a result of such Relief Event) occurring either during the Design Build Period or during the Operating Period, to the extent that the Company has not contributed to the occurrence of such Relief Event, such Relief Event would have occurred notwithstanding the Company's compliance with its obligations under the Concession Agreement and the Company has complied with its obligations to use reasonable efforts to mitigate such Relief Event. In addition, if a Relief Event occurs during the Design Build Period and prevents the Company from achieving a Revenue Service Commencement Date, then the Revenue Service Commencement Date will be deemed to have occurred, solely for the purpose of permitting the Company to receive Service Payments, on the date on which the Revenue Service Commencement Date would have occurred but for the Relief Event. Under the Concession Agreement, Relief Events include, among others,

	the failure of the District to obtain the benefit of required permits on a timely basis or to complete, or have completed, retained environmental work or to provide vacant possession of certain property, the discovery of previously unidentified environmental conditions and utilities, the imposition of certain taxes on the Project, certain suspensions of work by the District and any interruption of work on the Project caused by another District project, certain dispute resolution determinations found against the District and certain changes in law. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Relief Events."
Termination.....	Upon the occurrence of any of the termination events set forth in the Concession Agreement and described herein, the Concession Agreement may be terminated by either the District or the Company, as applicable, in either event creating an obligation of the District to pay the Applicable Termination Amount to the Company. The District is obligated to use best efforts to pay any Applicable Termination Amount to the Company as a lump sum, which the Company would be required to use to redeem Bonds. The Concession Agreement provides that, to the extent that the District fails to make such a lump sum payment, its obligation to pay the TABOR Portion survives any termination of the Concession Agreement. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Termination Payments," "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement—Termination of the Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT—Termination of the Concession Agreement."
SECURITY FOR THE SERIES 2010 BONDS	
Loan Agreement	The proceeds of the Series 2010 Bonds will be loaned to the Company pursuant to the Loan Agreement between the Company and the Issuer and will be available to the Company, subject to the terms and conditions set forth in the Loan Agreement and the Indenture, to pay costs of the Project. Pursuant to the Loan Agreement, the Company agrees to make payments to the Trustee in the amounts and on the dates required to pay the principal of and interest on the Series 2010 Bonds and agrees to comply with various covenants for the benefit of the Trustee and the Owners of the Series 2010 Bonds. See "SECURITY FOR THE BONDS—Loan Agreement."
Security Interests.....	The payment of the Series 2010 Bonds and any Additional Parity Bonds that may be issued in the future (collectively, the "Bonds") are secured by all of the Security Interests created for the benefit of the Trustee on behalf of the Owners of the Bonds pursuant to the Security Documents. The Security Interests include: (a) all of the Company's interest in the Concession Agreement, the Project Accounts, the Project Revenues, the Construction Payments and any Termination Payments received under the Concession Agreement, (b) a pledge by DTH of its membership interests in the Company, (c) a mortgage on the Company's leasehold interest in the Project property and (d) the rights of the Trustee to require equity contributions from the Equity Participants for the benefit of the Company pursuant to the Equity Contribution Agreement.
Debt Service Reserve Account.....	The Indenture establishes the debt service reserve requirement as an amount equal to six months of principal of and interest next coming

	due on the Bonds (the "Debt Service Reserve Requirement"). The Debt Service Reserve Account is being established under the Indenture and is required to be maintained in an amount equal to the Debt Service Reserve Requirement. The Debt Service Reserve Account is being funded initially from proceeds of the Series 2010 Bonds. After commencement of revenue service for the Project, funds in the Revenue Account, to the extent available, are to be deposited to satisfy any deficiency in the Debt Service Reserve Requirement. If funds are not available, failure to cure any such deficiency is not an Event of Default under the Loan Agreement or the Indenture. See "SECURITY FOR THE BONDS—Indenture" and "ACCOUNTS AND FLOW OF FUNDS."
Other Accounts and Flow of Funds....	Certain funds and accounts, including the Project Accounts, are being established under the Indenture and the Lockbox Account Agreement. A portion of the proceeds received from the sale of the Series 2010 Bonds will be deposited directly into the Indenture Construction Account, to be disbursed for payment of costs of the Project and for the payment of interest coming due on the Series 2010 Bonds during the Design Build Period. Construction Payments are to be deposited into the Borrower Construction Account until the Last Revenue Service Commencement Date, and, during the Operating Period, Service Payments and other amounts received by the Company pursuant to the Concession Agreement are to be deposited into the Revenue Account, in each case, under the Lockbox Account Agreement. The Company has granted a Security Interest in all of the Project Accounts pursuant to the terms of the Security Agreement. As described under "ACCOUNTS AND FLOW OF FUNDS," funds on deposit in the Revenue Account are to be applied to pay administrative costs and expenses, any rebate payments, any Project Costs not paid from Equity Contributions and Construction Payments and operations and maintenance costs of the Project prior to payment of principal of and interest on the Bonds. The Lockbox Account Agreement provides, however, that commencing on January 1 of any year for which adequate funds to satisfy any RTD Appropriation Obligation have not been included in the annual budget adopted by the District for that year, and, for so long as such funds are not so included, funds on deposit in the Revenue Account will be applied to pay principal of and interest on the Bonds prior to the payment of Project Costs and operations and maintenance costs of the Project. For a description of all the funds and accounts established in relation to the Project and a more detailed description of the flow of funds, see "SECURITY FOR THE BONDS—Indenture" and "ACCOUNTS AND FLOW OF FUNDS."
Additional Parity Bonds.....	Under the Indenture, upon request from the Company, the Issuer may issue Additional Parity Bonds subject to satisfying various minimum coverage ratios and other requirements set forth in the Indenture. See "SECURITY FOR THE BONDS—Indenture—Additional Parity Bonds."
Special, Limited Obligations.....	Except for revenues provided pursuant to the Loan Agreement as described in the following sentence, the Owners of the Series 2010 Bonds may not look to any revenues of the Issuer for repayment of the

Series 2010 Bonds. The only sources of repayment of the Series 2010 Bonds are revenues provided by the Company to the Issuer pursuant to the Loan Agreement and the Security Interests that are part of the Trust Estate. The Series 2010 Bonds do not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State.

OFFICIAL STATEMENT

Relating to

$397,835,000
REGIONAL TRANSPORTATION DISTRICT
(COLORADO)
TAX-EXEMPT PRIVATE ACTIVITY BONDS
(DENVER TRANSIT PARTNERS EAGLE P3 PROJECT), SERIES 2010

INTRODUCTION

General

The purpose of this Official Statement, which includes the cover page, inside cover page and appendices, is to provide information in connection with the issuance by the Regional Transportation District (the "District", and in its capacity as the issuer of the Bonds, the "Issuer"), a public body corporate and politic and a political subdivision of the State of Colorado (the "State"), of $397,835,000 aggregate principal amount of Regional Transportation District (Colorado) Tax-Exempt Private Activity Bonds (Denver Transit Partners Eagle P3 Project), Series 2010 (the "Series 2010 Bonds"). The Series 2010 Bonds are being issued pursuant to an Indenture of Trust, to be dated as of August 1, 2010 (the "Indenture"), between the Issuer and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), and pursuant to Sections 32-9-101 through 32-9-164, inclusive, of the Colorado Revised Statutes (the "Act"). Capitalized terms used but not defined in the front portion of this Official Statement have the meanings set forth in APPENDIX B or in the Concession and Lease Agreement, dated July 9, 2010, and amended on July 22, 2010 (and as further amended, supplemented or otherwise modified from time to time, the "Concession Agreement"), between the District and the Company, a summary of which is included in this Official Statement as APPENDIX C.

The Series 2010 Bonds are being issued by the Issuer to fund a loan to Denver Transit Partners, LLC, a Delaware limited liability company (the "Company"), to finance a portion of the costs of designing and constructing the Project described below.

The Project

The Project, sometimes called the "Eagle P3 Project," is part of the District's larger FasTracks Plan to expand and operate mass transit throughout the greater Denver metropolitan area. The FasTracks Plan includes, among other components, approximately 122 miles of new commuter and light rail transit in six new transit corridors. See the map on page iii and "THE PROJECT—Overview of FasTracks" and APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT."

The District is implementing the Project as a design-build-finance-operate-maintain project through a long-term concession with a private sector partner. After a competitive procurement process, the District awarded the concession for the Project to the Company on June 15, 2010. The Concession Agreement for the Project was executed by the District and the Company on July 9, 2010. On July 22, 2010, the Concession Agreement was amended to provide for a stated termination date of December 31, 2044, instead of the initial stated termination date of December 31, 2056. The Concession Agreement will be amended on the Closing Date to reflect certain adjustments to the annual Construction Payments to be paid to the Company in 2012 and in 2013.

The Project consists of (a) the design and construction of three Commuter Rail Projects: (i) the East Corridor from downtown Denver Union Station ("DUS") to Denver International Airport (approximately 22.8 miles); (ii) the design and construction of the Gold Line from downtown Denver to Wheat Ridge (approximately 7.3 miles); and (iii) the design and construction of the initial portion of the Northwest Rail Corridor, running from DUS to Westminster, also referred to as the Northwest Electrified Rail Segment ("NWES") (approximately 5.2 miles); (b) design and construction of the Commuter Rail Maintenance Facility (the "CRMF"); (c) the right-of-way alignment known as "DUS to CRMF," which is required for the movement of rolling stock from CRMF to DUS; (d) the procurement and installation of communications systems, a signaling system and a traction electrification system

(and all the equipment therein) for the DUS Rail Segment (the "DUS Rail Segment"); (e) the procurement of rolling stock for the Commuter Rail Projects; (f) the operation and maintenance of the Commuter Rail Projects, the CRMF and the rolling stock; and (g) the relocation of certain freight rail infrastructure.

Construction of the Project is to be implemented in two Phases. Phase 1 includes the East Corridor Rail Project, the CRMF, the "DUS to CRMF" project, procurement of the rolling stock, the DUS Rail Segment, and the freight rail infrastructure relocation. Phase 2 includes the Gold Line Corridor and the NWES.

The District expects to determine whether to develop Phase 2 of the Project by December 31, 2011, although this deadline may be extended if the Company agrees. Completion and operation of Phase 1 does not depend upon development and operation of Phase 2. If Phase 2 is not developed, however, the scope of and plan of financing for the Project will comprise Phase 1 only. Pursuant to the Concession Agreement, the Construction Payments to be paid by the District with respect to Phase 2 of the Project exceed the Company's actual costs of Phase 2 of the Project. The Company expects to apply these excess Phase 2 Construction Payments to a portion of the costs of Phase 1 of the Project. Therefore, in the event the District elects not to proceed with Phase 2, additional financing for Phase 1 of the Project will be necessary. The Concession Agreement provides for alternate means of financing the remaining costs of Phase 1 of the Project if Phase 2 of the Project is not developed. See "FINANCING FOR THE PROJECT—Phase 1 Only Financing Plan."

The Concession Agreement

Pursuant to the Concession Agreement, the District leases to the Company all of the Commuter Rail Network (except the DUS Rail Segment) and the rolling stock, and the Company agrees to design, construct, finance, operate and maintain the Project.

Pursuant to the Concession Agreement, the District is obligated to pay to the Company Construction Payments during the Design Build Period and Service Payments commencing when construction is completed for various initial elements of the Project and continuing for the term of the Concession Agreement. The Construction Payments are an RTD Appropriation Obligation payable from available funds of the District and subject to annual appropriation by the District. See "SOURCES AND USES OF FUNDS AND PROJECTED FINANCIAL INFORMATION" and FINANCING FOR THE PROJECT."

Under the Concession Agreement, the Service Payments have two components: (a) the TABOR Portion structured to exceed scheduled principal and interest on the Series 2010 Bonds and (b) the RTD Appropriation Obligation structured to cover operation and maintenance costs of the Project. The term TABOR Portion derives from an amendment to Article X of the State Constitution passed in 1992 known as the Taxpayer's Bill of Rights ("TABOR"). TABOR requires voter approval for tax increases, debt, multiple-fiscal year financial obligations and increases in government spending that exceed inflation plus local growth, which, for a governmental entity, such as the District, is based on certain changes in the value of taxable property. The authority for the District to pay the TABOR Portion in accordance with the Concession Agreement was authorized by a November 2, 2004 ballot referendum pursuant to which voters in the District approved an increase in the District's sales tax rate from 0.6% to 1.0%, providing an additional 0.4% sales tax available to the District, and also authorized the District to issue debt obligations secured by this additional sales tax to fund the District's FasTracks Plan.

The Concession Agreement provides that the District's obligation to pay the TABOR Portion is secured by a subordinate pledge by the District of its Sales Tax Revenues, available after payment of the Senior RTD Debt described herein. The District's obligation to pay the TABOR Portion is not subject to annual appropriation. The District's obligation to pay the RTD Appropriation Obligation is payable from available funds of the District and is subject to annual appropriation. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "—RTD Appropriation Obligations."

The stated expiration date of the Concession Agreement is December 31, 2044. The Concession Agreement may be terminated prior to its stated expiration date for various reasons, including RTD Termination Events, Concessionaire Termination Events, Extensive Force Majeure Events and a termination in the event that the District has not issued the Full Phase 1 Notice to Proceed. The Concession Agreement provides that the Company will receive the Applicable Termination Amount upon the occurrence of each of these termination events, calculated

in accordance with the provisions of the Concession Agreement. The Concession Agreement provides that the District will remain obligated to pay to the Company the portion of any Applicable Termination Amount payable from the TABOR Portion even after the occurrence of a termination event. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Compensation Upon Termination" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

The Design Build Contract and the O&M Contract are designed to require the Design Build Contractor and the O&M Contractor to have the same obligations, the same termination events and the same compensation events as the Company has under the Concession Agreement. This structure is intended to ensure that the Company has sufficient moneys to fund its obligations to the District under the Concession Agreement. See "PRINCIPAL PROJECT AGREEMENTS."

The Company

The Company, which was formed for the sole purpose of designing, constructing, financing, operating and maintaining the Project, is a limited liability company all of the membership interests in which are held by DTH, also a Delaware limited liability company. The owners of the membership interests in DTH (the "Equity Participants") are Fluor Enterprises, Inc. ("Fluor") and MIHI LLC ("Macquarie"). Macquarie intends to sell its membership interest in DTH to Uberior Infrastructure Investments (No 4) USA LLC, an Affiliate of Uberior Infrastructure Investments (No. 4) Limited, and to Denver Rail (Eagle) Holdings Inc., a 100% subsidiary of John Laing Investments Ltd., on or about the date the Series 2010 Bonds are issued. See "PLAN OF FINANCING FOR THE PROJECT" and "PROJECT PARTICIPANTS—Equity Participants."

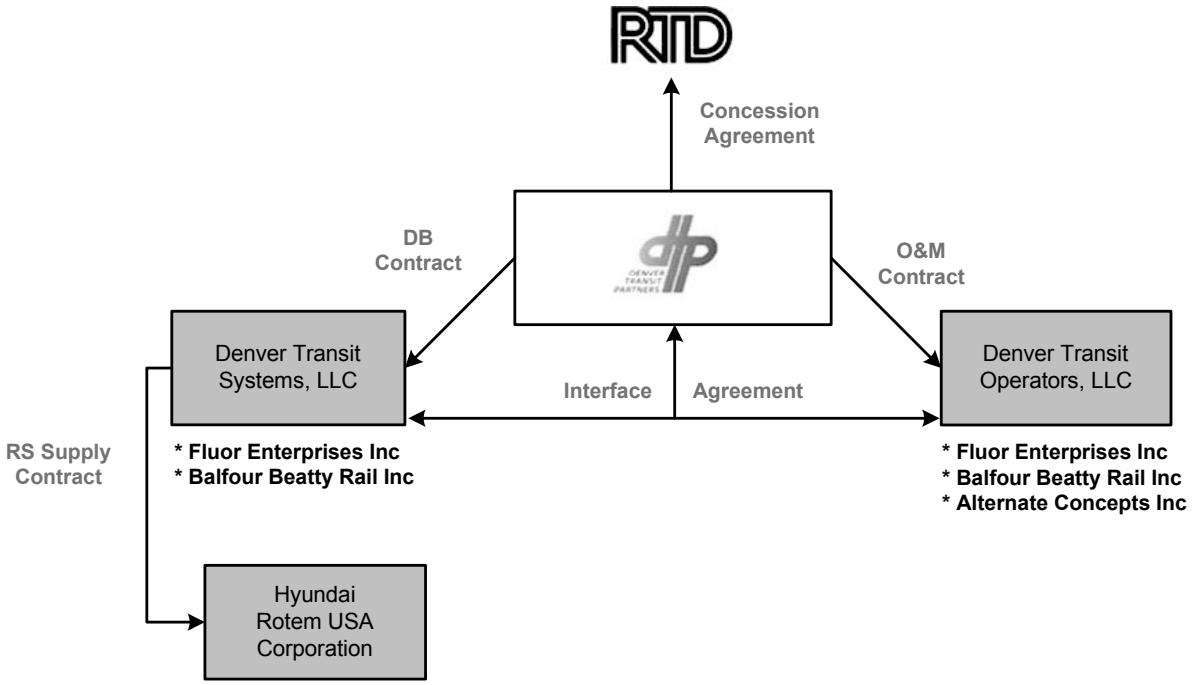
Construction and Operation of the Project

The District's obligation to make Construction Payments and Service Payments depends upon the Company's performance of its obligations under the Concession Agreement, including completion of the design, construction and start up of the portions of the Project when required and the operation of the Project in accordance with the standards set forth in the Concession Agreement. As described herein, pursuant to the Design Build Contract, substantially all of the Company's obligations to design, construct and complete the Project are being undertaken by Denver Transit Systems, LLC (the "Design Build Contractor"), a special-purpose entity formed by Fluor and Balfour Beatty Rail Inc. ("BBRI"). Additionally, the Design Build Contractor has contracted with Hyundai Rotem USA Corp. (the "Rolling Stock Supplier") to manufacture rolling stock for the Project. See "PROJECT PARTICIPANTS" and "PRINCIPAL PROJECT AGREEMENTS."

Pursuant to the O&M Contract, substantially all of the Company's obligations to operate the Project in accordance with the requirements of the Concession Agreement are being undertaken by Denver Transit Operators, LLC (the "O&M Contractor"), a single-purpose, Delaware limited liability company formed by Alternate Concepts, Inc. ("ACI"), BBRI and Fluor.

The obligations of the Design Build Contractor are being guaranteed, jointly and severally, by Fluor Corporation and Balfour Beatty, LLC (together, the "Design Build Guarantors"), and Balfour Beatty plc is providing a guaranty of the payment obligations of Balfour Beatty, LLC. The obligations of the O&M Contractor are also being guaranteed, jointly and severally, by Fluor Corporation and Balfour Beatty, LLC (together, the "O&M Guarantors"), and Balfour Beatty plc is providing a guaranty of the payment obligations of Balfour Beatty, LLC. See "PROJECT PARTICIPANTS" and "PRINCIPAL PROJECT AGREEMENTS."

In addition, an Interface Agreement has been executed among the Company, the Design Build Contractor and the O&M Contractor that sets forth terms by which the Design Build Contractor and the O&M Contractor are required to cooperate and to coordinate with each other in the performance of their respective obligations under the Design Build Contract and the O&M Contract. In the Interface Agreement, the Contractors agree to a division of responsibility between them prior to the start of revenue service of the Project. See "PRINCIPAL PROJECT AGREEMENTS—Interface Agreement."



Financing of the Project

The total cost of both Phase 1 and Phase 2 of the Project is estimated to be approximately $1.64 billion. The Company and the District intend that the Project will be funded with a combination of: proceeds of the Series 2010 Bonds; Construction Payments and Service Payments made by the District pursuant to the Concession Agreement; Equity Contributions by the members of Denver Transit Holdings, LLC ("DTH"), the owner of all membership interests in the Company; and investment earnings.

Pursuant to the Concession Agreement, approximately $1.14 billion of the costs of the Project are to be funded from Construction Payments required to be made by the District to the Company, and the Company is responsible for financing the costs of the Project not funded with Construction Payments. The Company expects to pay its share of the costs of the Project, which are not funded from Construction Payments, with proceeds of the Series 2010 Bonds, Equity Contributions and investment earnings. See "SOURCES AND USES OF FUNDS AND PROJECTED FINANCIAL INFORMATION" and "FINANCING FOR THE PROJECT."

The Company expects to apply proceeds received from the sale of the Series 2010 Bonds (a) to pay a portion of the costs of the Project, (b) to make a deposit to the Debt Service Reserve Account in an amount at least sufficient to satisfy the initial Debt Service Reserve Requirement for the Series 2010 Bonds, (c) to pay a portion of the interest to accrue on the Series 2010 Bonds during the Design Build Period, (d) to fund a contingency account to be available to the Company to pay certain costs resulting from changes in law pursuant to the Concession Agreement and (e) to pay a portion of the costs of issuing the Series 2010 Bonds. See "SOURCES AND USES OF FUNDS."

Security and Sources of Payment for the Bonds

As described in the section "SECURITY FOR THE BONDS—Loan Agreement," the proceeds to be received by the Issuer from the sale of the Series 2010 Bonds are to be loaned to the Company pursuant to a Loan Agreement, to be dated as of August 1, 2010, between the Issuer and the Company (the "Loan Agreement"), pursuant to which the Company agrees, among other things, to make payments to the Trustee in the amounts and on the dates required to pay the principal of and interest on the Series 2010 Bonds. Substantially all of the Issuer's rights under the Loan Agreement, including the Issuer's rights to receive such loan payments, are being pledged and

assigned by the Issuer to the Trustee as security for the payment of the Series 2010 Bonds, through the grant of the Trust Estate pursuant to the Indenture. All of the Company's rights under the Concession Agreement, the Design Build Contract, the O&M Contract, the guarantees made by the Design Build Guarantors and the O&M Guarantors, and the other Material Project Contracts described herein are being pledged and granted by the Company to the Trustee pursuant to a Security Agreement as security for the Company's obligations under the Loan Agreement, including the obligation to make payments to the Trustee in the amounts and on the dates required to pay the principal of and interest on the Series 2010 Bonds. The Company's leasehold estate in the real and personal property leased to it pursuant to the Concession Agreement is mortgaged to the Trustee pursuant to the Leasehold Mortgage and DTH will assign, pledge and grant to the Trustee, for the ratable benefit of the Owners of the Bonds, a security interest in all of its membership interests in the Company pursuant to the Pledge Agreement.

The Series 2010 Bonds are special, limited obligations of the Issuer payable solely from payments received from the Company pursuant to the Loan Agreement. Except for revenues provided pursuant to the Loan Agreement as described in the following sentence, the Owners of the Series 2010 Bonds may not look to any revenues of the Issuer for repayment of the Series 2010 Bonds. The only sources of repayment of the Series 2010 Bonds are revenues provided by the Company to the Issuer pursuant to the Loan Agreement and the Security Interests that are part of the Trust Estate. The Series 2010 Bonds will not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State.

THE SERIES 2010 BONDS

General

The Series 2010 Bonds are being issued in the aggregate principal amount and will mature, subject to prior redemption, on the dates shown on the inside cover page of this Official Statement and will be subject to redemption prior to maturity as described below. The Series 2010 Bonds are being issued as fully registered bonds in denominations of $5,000 and integral multiples thereof. The Series 2010 Bonds will be issued in book-entry form pursuant to the book-entry-only system described herein. Beneficial Owners of the Series 2010 Bonds will not receive physical delivery of any Bond certificates.

The Series 2010 Bonds will be dated their date of initial delivery and will bear interest from that date at the per annum rate set forth on the inside cover page of this Official Statement.

Interest on the Series 2010 Bonds is payable semi-annually on January 15 and July 15 of each year, commencing on January 15, 2011, until maturity or prior redemption. Interest on the Series 2010 Bonds will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Special and Limited Obligations

The Series 2010 Bonds are special limited obligations of the Issuer, payable solely from payments received from the Company pursuant to the Loan Agreement. Except for revenues provided pursuant to the Loan Agreement as described in the following sentence, the Owners of the Series 2010 Bonds may not look to any revenues of the Issuer for repayment of the Series 2010 Bonds. The only sources of repayment of the Series 2010 Bonds are revenues provided by the Company to the Issuer pursuant to the Loan Agreement and the Security Interests that are part of the Trust Estate. The Series 2010 Bonds will not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State.

Payment of the Series 2010 Bonds

The principal of and interest on the Series 2010 Bonds will be payable only to the Owner thereof appearing on the registration books, and the Indenture provides that, to the extent permitted by law, neither the Trustee, nor any agent thereof, will be affected by notice to the contrary.

Pursuant to the Indenture, the principal and Redemption Price of any Series 2010 Bond will be paid to the Owner thereof as shown on the registration records of the Trustee upon maturity or prior redemption thereof in accordance with the terms of the Indenture and upon presentation and surrender of the Series 2010 Bonds at the designated payment office of the Trustee in New York, New York. Interest on the Series 2010 Bonds is payable to the Owner whose name appears in the registration books at the close of business on the Record Date and will be paid (a) by check or draft sent on or prior to the appropriate date of payment by the Trustee to the address of the Owner appearing in the registration books on the Record Date or (b) by such other method as mutually agreed in writing between the Owner of the Series 2010 Bond and the Trustee. The "Record Date" for the Series 2010 Bonds is the close of business on the last day of the month immediately preceding the month of each Interest Payment Date. If any such Record Date is not a Business Day, then the Record Date is the Business Day next preceding such date.

The Indenture provides that any interest not timely paid will cease to be payable to the Owner thereof at the close of business on the Record Date and will be payable to the person who is the Owner thereof at the close of business on a new Record Date for the payment of such defaulted interest (a "Special Record Date"). Such Special Record Date will be fixed by the Trustee whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date will be given by the Trustee to the Owners of the Series 2010 Bonds, not less than 10 days prior to the Special Record Date, by certified or first-class mail to each such Owner as shown on the Trustee's registration records on a date selected by the Trustee, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest.

While the Series 2010 Bonds are held under the book-entry system, the principal of, interest on and Redemption Price of the Series 2010 Bonds will be paid by wire transfer to DTC, as securities depository, or its nominee.

Redemption

The Series 2010 Bonds are subject to redemption prior to their stated maturity, in accordance with the terms and provisions of the Indenture, as follows:

Optional Redemption. On July 15, 2020 and on any date thereafter, the Issuer, at the direction of the Company, may optionally redeem the Series 2010 Bonds prior to the applicable scheduled maturity, in whole or in part, and, if in part, by lot within such maturities as selected by the Company, with funds provided by the Company, at a redemption price of par plus accrued interest to, but not including, the redemption date (provided that a portion of a Series 2010 Bond may be redeemed only in Authorized Denominations).

Mandatory Sinking Fund Redemption. The Series 2010 Bonds maturing on January 15, 2030, January 15, 2034 and January 15, 2041 (collectively, the "Series 2010 Term Bonds") will be subject to mandatory sinking fund redemption prior to maturity in the aggregate principal amounts and on the dates set forth in the following amortization table at a redemption price of par plus accrued interest to, but not including, the date fixed for redemption. Such Series 2010 Term Bonds will be redeemed by lot in accordance with the arrangements with DTC.

Series 2010 Bonds Maturing January 15, 2030

Mandatory Redemption Date	Principal Amount
July 15, 2026	$ 6,315,000
January 15, 2027	6,690,000
July 15, 2027	7,095,000
January 15, 2028	7,520,000
July 15, 2028	7,970,000
January 15, 2029	8,450,000
July 15, 2029	8,955,000
January 15, 2030*	9,495,000

*Final maturity

Series 2010 Bonds Maturing January 15, 2034

Mandatory Redemption Date	Principal Amount
July 15, 2030	$ 10,060,000
January 15, 2031	10,665,000
July 15, 2031	8,335,000
January 15, 2032	8,895,000
July 15, 2032	9,495,000
January 15, 2033	10,140,000
July 15, 2033	10,825,000
January 15, 2034*	11,555,000

*Final maturity

Series 2010 Bonds Maturing January 15, 2041

Mandatory Redemption Date	Principal Amount
July 15, 2034	$ 12,335,000
January 15, 2035	13,165,000
July 15, 2035	14,055,000
January 15, 2036	15,005,000
July 15, 2036	9,035,000
January 15, 2037	9,600,000
July 15, 2037	10,200,000
January 15, 2038	10,835,000
July 15, 2038	11,515,000
January 15, 2039	12,235,000
July 15, 2039	13,000,000
January 15, 2040	13,810,000
July 15, 2040	14,675,000
January 15, 2041*	15,585,000

*Final maturity

The Trustee shall credit against the mandatory sinking fund requirement for the Series 2010 Bonds (and corresponding mandatory redemption obligation), as set forth above in the order determined by the Company, any Series 2010 Bonds of the applicable maturity delivered to the Trustee for cancellation or purchased for cancellation by the Trustee and canceled by the Trustee and not theretofore applied as a credit against any redemption obligation under the Indenture.

Extraordinary Mandatory Redemption

Unspent Series 2010 Bond Proceeds. The Series 2010 Bonds are subject to extraordinary mandatory redemption by lot within such maturities as selected by the Company at a redemption price of par plus accrued interest to, but not including, the redemption date (which will be set by the Trustee on a Business Day that is no earlier than the date that is five years and 30 days after the date of issuance of the Series 2010 Bonds and no later than the date that is five years and 90 days after the date of issuance of the Series 2010 Bonds) in the principal amount of (rounded upward to a multiple of $5,000) and to the extent of any remaining unspent Bond proceeds on such date, sufficient to effectuate such redemption; *provided* that no such redemption shall be required upon the Company's obtaining an opinion of Bond Counsel stating that the failure to perform such redemption will not adversely affect the exclusion of interest on such Series 2010 Bonds from gross income for federal or State income tax purposes and that such redemption is not required by the Act.

Concession Agreement Termination Payments. The Series 2010 Bonds are subject to extraordinary mandatory redemption in the event that the Company receives a lump sum payment of any following types of "Termination Compensation" under the Concession Agreement: RTD Default Amount, Concessionaire Default Amount or FM Termination Amount. Such Termination Compensation will be paid to the Company by the District in the event the District refinances, in whole or in part, its continued obligation under the Concession Agreement to pay the TABOR Portion to the Company after the occurrence of any event that requires the District to pay such Termination Compensation. See "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement—Termination of the Concession Agreement." Such redemption will be in whole or in part and, if in part, by lot within such maturities as selected by the Company (provided that a portion of a Bond may be redeemed only in Authorized Denominations) at a redemption price of par plus accrued interest to, but not including, the redemption date. The redemption shall occur on any date for which the requisite notice of redemption can be given within 120 days after the Termination Compensation is received by the Company.

Notice of Redemption. The Indenture provides that notice of an optional redemption, mandatory sinking fund redemption or extraordinary redemption, identifying the Series 2010 Bonds or portions thereof to be redeemed and specifying the terms of such redemption, shall be given by the Trustee by mailing a copy of the redemption

notice by United States first-class mail, at least 30 days and not more than 60 days prior to the date fixed for redemption, to the Owner of each Series 2010 Bond to be redeemed at the address as it last appears on the registration records of the Trustee; *provided*, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings of any Series 2010 Bonds as to which no such failure has occurred. The Trustee shall give such notice for redemption and payment upon receipt by the Trustee at least 45 days prior to the redemption date of a written request of the Company; *provided* that the Trustee is required to give notice of redemption of Series 2010 Term Bonds for mandatory sinking fund redemption without such written request.

Any notice mailed as provided in the Indenture is deemed to have been duly given, whether or not the Owner receives the notice.

The Indenture provides that, if, at the time of mailing of notice of any redemption of Series 2010 Bonds at the option of the Issuer, there shall not have been deposited with the Trustee moneys sufficient to pay the Redemption Price of all the Series 2010 Bonds to be redeemed, such notice shall state that it is conditional upon the deposit with the Trustee of an amount equivalent to the full amount of the moneys for such purpose not later than the opening of business on the redemption date specified in the redemption notice, and such redemption notice shall be of no effect unless such Redemption Moneys are so deposited.

So long as DTC is affecting book-entry transfers of the Series 2010 Bonds, the Trustee shall provide the redemption notices specified herein to DTC. It is expected that DTC shall, in turn, notify its direct participants and that the direct participants, in turn, will notify or cause to be notified the Beneficial Owners of the Series 2010 Bonds. Any failure on the part of DTC or a direct participant, or failure on the part of a nominee of a beneficial owner of a Series 2010 Bond (having been mailed notice from the Trustee, DTC, a direct participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Series 2010 Bond.

Book-Entry-Only System

The Series 2010 Bonds will be registered in the name of Cede & Co., as nominee for DTC. Purchases of beneficial interests in the Series 2010 Bonds will be made only in book-entry form. Purchasers of beneficial interests in the Series 2010 Bonds (the "Beneficial Owners") will not receive physical delivery of certificates representing their interest in the Series 2010 Bonds. Interest on the Series 2010 Bonds, together with principal of the Series 2010 Bonds, will be paid by the Trustee directly to DTC, so long as DTC or its nominee is the registered owner of the Series 2010 Bonds. The final disbursement of such payments to Beneficial Owners of the Series 2010 Bonds will be the responsibility of the DTC's Direct and Indirect Participants, all as defined and more fully described herein. See APPENDIX N—"BOOK-ENTRY-ONLY SYSTEM."

THE PROJECT

Overview

The term "Project" as used in this Official Statement refers to those portions of the District's FasTracks transportation plan, the construction and operation of which are the responsibility of the Company pursuant to the Concession Agreement. The Project consists of (a) the design and construction of three Commuter Rail Projects: (i) the East Corridor from downtown Denver Union Station ("DUS") east to Denver International Airport ("DIA") (approximately 22.8 miles); (ii) the design and construction of the Gold Line from DUS to Arvada and Wheat Ridge (approximately 7.3 miles); and (iii) the design and construction of the initial portion of the Northwest Rail Corridor, running from DUS to Westminster, also referred to as the Northwest Electrified Rail Segment ("NWES") (approximately 5.2 miles); (b) design and construction of the Commuter Rail Maintenance Facility (the "CRMF"); (c) the right-of-way alignment known as "DUS to CRMF," which is required for the non-revenue movement of rolling stock between these locations; (d) the procurement and installation of communications systems, a signaling system and a traction electrification system (and all the equipment therein) for the DUS Rail Segment (the "DUS Rail Segment"); (e) the procurement of rolling stock for the Commuter Rail Projects; (f) the operation and maintenance of the Commuter Rail Projects, the CRMF and the rolling stock; and (g) the relocation of certain freight rail infrastructure.

Description of Project Elements

The East Corridor will provide improved access to Denver International Airport ("DIA") by connecting DIA to DUS, the existing hub for the regional rail and bus system and interstate bus and heavy rail infrastructure. The East Corridor will be approximately 22.8 miles, extending from its origination station at DUS to a new terminal station at DIA, with six proposed intermediate stations in locations throughout the City and County of Denver and the City of Aurora. The East Corridor is expected to be completed by 2016 and by 2030 is expected to provide service to approximately 20,100 riders (average weekday).

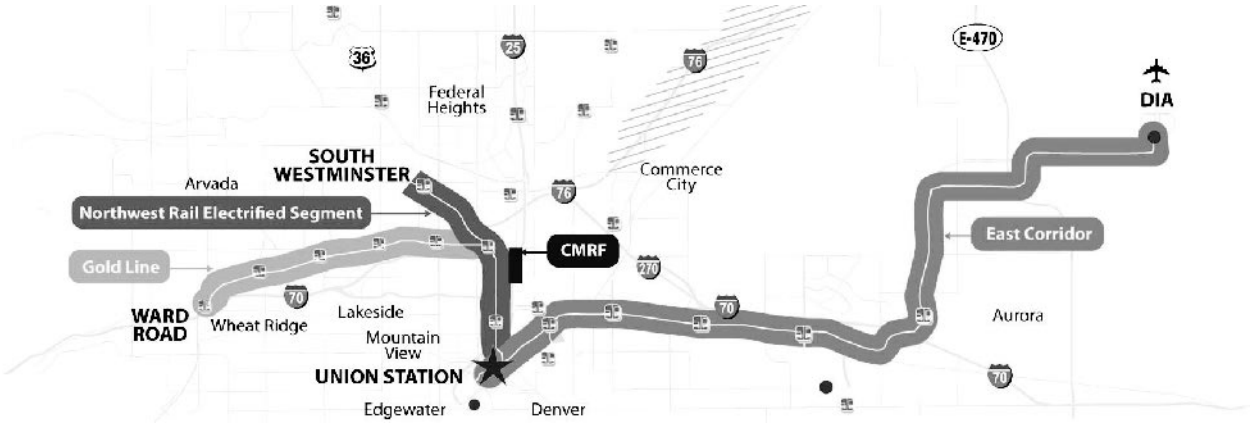
The Gold Line will connect downtown Denver with neighborhoods and businesses in northwest Denver and the western suburbs. Running from DUS to Pecos Junction, the Gold Line will share track with the NWES. At Pecos Junction, the Gold Line will diverge from the NWES and will run west for an additional 7.3 miles through Arvada terminating in Wheat Ridge. The Gold Line is expected to provide service to approximately 10,400 riders by 2030 (average weekday).

The NWES running between DUS and Westminster is approximately 5.2 miles. The NWES will share an alignment with the future Northwest Rail Service (which is not part of the Project), the Gold Line and the DUS to CRMF non-revenue movements of rolling stock. The NWES is expected to provide service to approximately 3,000 riders by 2030 (average weekday).

The CRMF covers approximately 24.3 acres and is located northwest of downtown Denver, adjacent to the NWES alignment. The CRMF will be fully equipped for maintenance of the rolling stock, with sufficient capacity for the personnel necessary to maintain the infrastructure of the Project. The CRMF is also anticipated to include facilities to allow for command and control of the commuter rail operations and security with communication links to the District's light rail transit operation control center and security command center. The CRMF is anticipated to be connected to DUS by approximately two miles of access track.

DUS will be the hub for many transportation modes in the Denver metro area. The East Corridor, the Gold Line, the North Metro Corridor, the Northwest Rail Corridor, the West Corridor and the Central Platte Valley lines will all terminate at DUS, as well as the US 36 BRT corridor and many bus lines. Amtrak services are also expected to continue to serve DUS.

A map of the Project is provided on the following page.



Hyundai Rotem USA Corp. (the "Rolling Stock Supplier") will provide rolling stock for the Project. These vehicles will be "electric multiple units" or (EMUs), commuter rail vehicles that are designed to achieve higher speed than the light rail vehicles currently operated by the District. Rolling stock with substantially similar specifications is being manufactured by the Rolling Stock Supplier and is expected to be in revenue service later this year for the Philadelphia metropolitan area transit system. Many of the systems and equipment to be used for the rolling stock for the Project will be the same as those used for the vehicles in the Philadelphia transit system, and it is expected that the rolling stock for the Project will be manufactured at the same production facility as the rolling stock for the Philadelphia transit system.

The following renderings produced by the Company depict the rolling stock expected to be used for the Project.


Union Station
RTD
RTD

Implementation of the Project

The Concession Agreement governs the relationship between the District and the Company in connection with the design, procurement, construction, financing, operation and maintenance of the Project, including procurement of rolling stock. For a more detailed description of the Concession Agreement, see "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

Construction of the Project is being undertaken by Denver Transit Systems, LLC, a special-purpose entity formed by Fluor and Balfour Beatty Rail Inc. (the "Design Build Contractor") pursuant to a "fixed-price/fixed date" Design Build Contract. See "THE PRINCIPAL PROJECT AGREEMENTS—Design Build Contract" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT." The Project will be operated and maintained by Denver Transit Operators, LLC, a special-purpose entity formed by Fluor, Balfour Beatty Rail Inc. and Alternate Concepts Inc. (the "O&M Contractor") pursuant to an Operation and Maintenance Contract (the "O&M Contract") that provides for the same term as the Concession Agreement. For a more detailed description, see "THE PRINCIPAL PROJECT AGREEMENTS—O&M Contract" and APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT." Rolling stock for the Project is to be procured by the Design Build Contractor under the Rolling Stock Supply Contract with the Rolling Stock Supplier (the "Rolling Stock Supply Contract"), pursuant to which the Rolling Stock Supplier will design, manufacture, assemble, deliver, test and provide training for the rolling stock. For a more detailed description of the Rolling Stock Supply Contract, see "THE PRINCIPAL PROJECT AGREEMENTS—Rolling Stock Supply Contract."

The table on the following page summarizes the performance security that the Design Build Contractor will provide the Company pursuant to the Design Build Contract, the performance security provided to the Design Build Contractor under the Rolling Stock Supply Contract and the performance security that the O&M Contractor will provide the Company pursuant to the O&M Contract. For more detailed information about this performance security, see "THE PRINCIPAL PROJECT AGREEMENTS," APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT," APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT" and APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT."

Design Build Contractor, O&M Contractor and Rolling Stock Supplier Payment and Performance Security[(1)]

<table>
<tr><th>Design Build Contract</th><th>O&M Contract</th></tr>
<tr><td rowspan="2">

Guaranties: Joint and several guaranties from Fluor Corporation and Balfour Beatty, LLC (with a financial guaranty from Balfour Beatty plc) for all payment and performance obligations of the Design Build Contractor.
Concession Agreement Construction Security: A performance bond equal to the greater of (a) 50% of the total Earned Value of certain work to be performed for a given year and (b) 5% of the total Earned Value for certain work not yet performed under the Design Build Contract.
Concessionaire Construction Security: A letter of credit equal to 6% of the contract sum applicable to Phase 1 (or $60,184,268), to be increased at commencement of Phase 2 to 6% for Phase 1 and Phase 2 (or $76,151,818). At the Revenue Service Commencement Date for the East Corridor Project, the amount of the letter of credit is reduced to 3% until the completion of construction. Thereafter, a warranty bond equal to 10% of the contract sum until the end of the warranty period or resolution of claims.
Liquidated Damages: (a) the East Corridor Project, if not complete by January 29, 2016: $112,574 per day until December 31, 2016, and $290,369 per day during the period following December 31, 2016; (b) the Gold Line Project, if not complete by July 1, 2016: $23,382 per day until December 31, 2016; and (c) the NWES, if not complete by March 31, 2016: $6,632 per day until December 31, 2016. Aggregate amount is capped at 10% of the contract sum and amounts of liquidated damages as set forth herein are subject to permitted changes in the performance schedule and various other factors. These Liquidated Damages are sized to provide the Company with liquidity to fund costs (including debt service) associated with delays in completion beyond the scheduled date through to the Concession Revenue Service Deadline Date.
Limitation on Liability: Maximum aggregate liability on damages is capped at 45% of the contract sum, subject to certain carve-outs including abandonment.

</td><td>

Guaranties: Joint and several guaranties from Fluor Corporation and Balfour Beatty, LLC (with a financial guaranty from Balfour Beatty plc) for all payment and performance obligations of the O&M Operator.
O&M Letter of Credit: From the start of the Operating Period, a letter of credit of $22,659,628, adjusted annually for inflation (the “Required Security Amount”), to remain in effect until at least the final maturity of the Bonds and subject to certain adjustment and replenishment requirements. After the end of the Warranty Period, a letter of credit or performance bond equal to 150% of the estimated cost of unresolved warranty claims will continue until resolution of claims.
Renewal Works Security: Commencing with the first year of scheduled Renewal Work and continuing until all Bonds have been repaid, in each year if (a) the value of forecasted renewal costs less the budgeted renewal costs less amounts on deposit in the renewal reserve account is greater than $1,000,000 or 10% of the budgeted renewal costs; (b) the undrawn amount of the O&M Letter of Credit less the amount calculated in clause (a) is less than 75% of the Required Security Amount; and (c) certain performance measurements thresholds have not been achieved, O&M Contractor provides a letter of credit equal to the amount calculated in clause (a).
Limitation on Liability: Maximum aggregate liability is limited to $67,978,884, adjusted annually for inflation, subject to certain carve-outs including abandonment. This aggregate liability limit on damages is sized to cover approximately 18 months of operations and maintenance costs including renewal works.

</td></tr>
<tr><td>Rolling Stock Supply Contract</td></tr>
<tr><td></td><td>

Rolling Stock Damages: Rolling Stock Supplier is liable to Design Build Contractor for damages caused by delays beyond applicable Revenue Service Target Dates attributable to Rolling Stock Supplier’s default, subject to the contract price. Also liquidated damages equal to: $2,000 per vehicle per day for late delivery of the Pilot Cars; $1,000 per Car per day for late delivery for the Production Cars, up to 10% of the contract price; and 0.5% of the price per Car per week of delay, but not to exceed 7.5% of the aggregate value, for Option Cars.

</td></tr>
</table>

[(1)] All dollar values listed are approximate and the final dollar values will depend upon a number of factors, including whether the District proceeds with Phase 2, any changes to the construction schedule for the Project, whether certain options are exercised by the District with respect to the construction of the Project and the value of Change Orders.

Acquisition of the UP Sites

Under the Concession Agreement, the District is obligated to acquire certain property and rights-of-way from the Union Pacific Corporation (the "UP Sites"). Acquisition of the UP Sites is required for construction of the East Corridor. The Concession Agreement provides that prior to the date on which the District has delivered the Full Phase 1 Notice to Proceed, the Company shall carry out only Phase 1 Work that (i) does not require entry onto the UP Sites and (ii) that does not, when taken together with all other Phase 1 Work, require expenditure by the Company of an amount in excess of the Maximum Limited Phase 1 Work Value. If the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011, the District or the Company may terminate the Concession Agreement, with the Company receiving Termination Compensation calculated in the same manner as for an RTD Termination Event. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Payment of Termination Amounts" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT." On July 20, 2010, the District authorized the execution of purchase and sale agreements for the UP Sites. On August 4, 2010, the purchase and sale agreements were executed. Funding for the acquisition of the UP Sites has been included in the District's Amended 2010 Budget for FasTracks.

In connection with the acquisition of the UP Sites, the District may terminate the Concession Agreement if (i) the Phase 1 Work by the Concessionaire would require expenditures in amounts exceeding the Maximum Limited Phase 1 Work Value, or (ii) the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011. If the District terminates the Concession Agreement for these reasons, the District will be required to pay the RTD Default Amount pursuant to which Lender Liabilities, which include the payment of interest, principal and breakage, are structured to be paid in full. The District may pay the RTD Default Amount in a lump sum, or through the scheduled periodic TABOR payments. Notwithstanding the foregoing, because TABOR payments do not commence until 2017, there are certain circumstances in these two termination scenarios in which there may not be sufficient cash in the Project Accounts or the Debt Service Fund to pay for interest when due, although such amounts will be paid in these termination scenarios when the scheduled TABOR payment is received.

Phasing of the Project

Construction of the Project is being implemented in two Phases. Phase 1 includes the East Corridor Rail Project, the CRMF, the "DUS to CRMF" project, procurement of the rolling stock, the DUS Rail Segment and the freight rail infrastructure relocation. Phase 2 includes the Gold Line Corridor and the NWES.

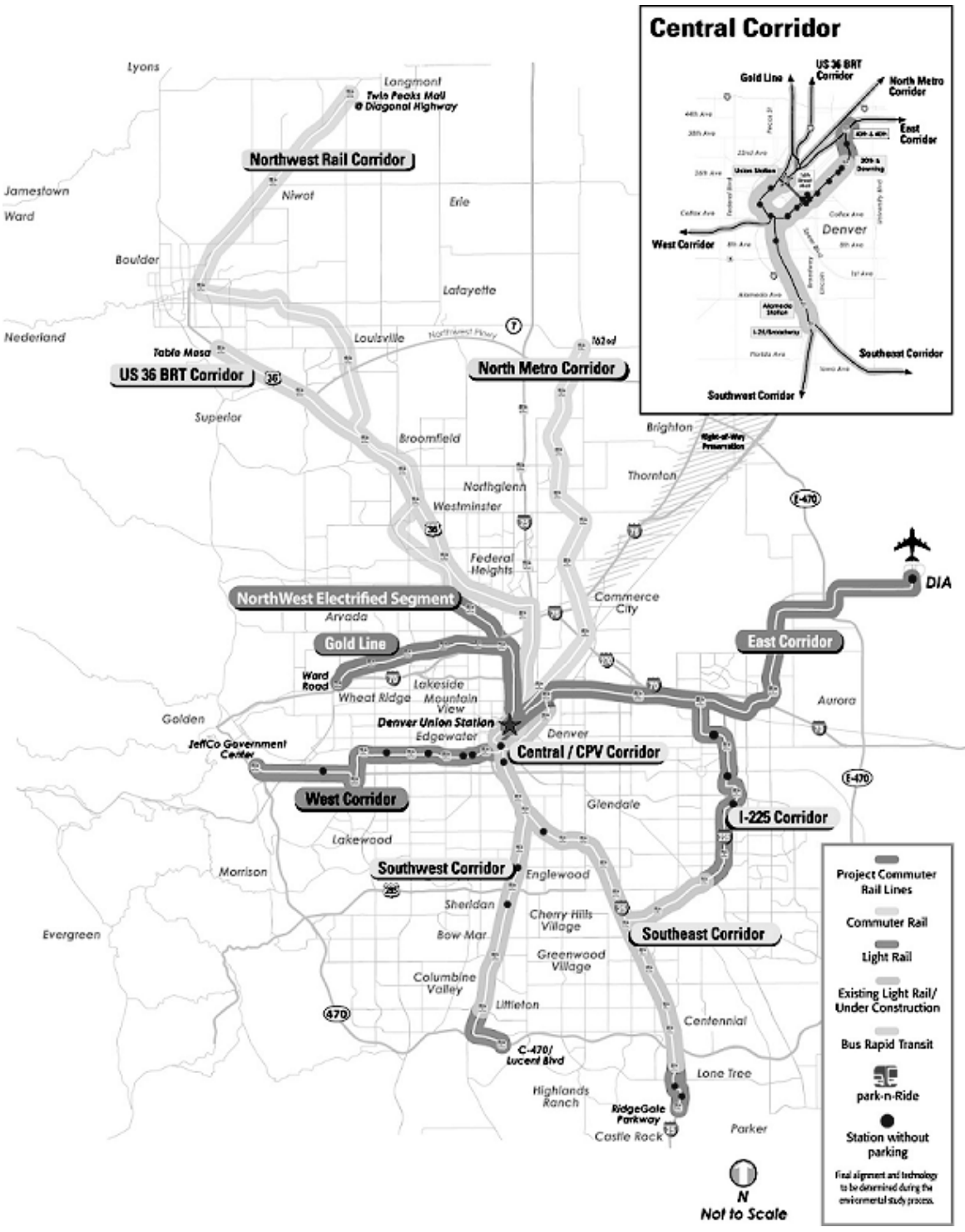
The District will, in its sole discretion, determine whether to develop Phase 2 of the Project. The Concession Agreement provides that this decision is to be made by December 31, 2011, although this deadline may be extended if the Company agrees. Completion and operation of Phase 1 does not depend upon development and operation of Phase 2. However, if Phase 2 is not developed, the scope of and plan of financing for the Project will change to comprise only Phase 1. The Concession Agreement provides for alternate means of financing the remaining costs of Phase 1 of the Project if Phase 2 of the Project is not developed. See "FINANCING FOR THE PROJECT—Phase 1 Only Financing Plan."

Overview of Denver FasTracks Plan

The Project is an integral part of the larger Denver FasTracks Plan, the District's 12-year comprehensive plan to build and operate commuter rail lines and to expand and improve light rail service, bus service and park-n-rides throughout the Denver metropolitan region (the "FasTracks Plan"). The FasTracks Plan consists of the addition of 122 miles of new light rail and electric- and diesel-powered commuter rail transit, 18 miles of new bus rapid transit, 57 additional rapid transit stations, more than 21,000 new parking spaces at existing and new park-n-ride lots and improvements to the centralized intermodal facility at DUS. The FasTracks Plan calls for the construction of rapid transit in six new corridors and enhancements and extensions to existing rapid transit in three corridors. The District receives significant amounts of funding for its operations, including implementation of the FasTracks Plan from sales tax revenues authorized by a November 2004 ballot referendum that authorized the District to levy and collect an additional 0.4% sales tax for the purposes of developing and expanding public transportation. For additional information regarding the District's FasTracks Plan, see APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT—THE SYSTEM—FasTracks."

The District's Transit Network, including the FasTracks Plan, is shown on page iii and below.

District Network Overview



SOURCES AND USES OF FUNDS AND PROJECTED FINANCIAL INFORMATION

Projected Sources and Uses of Funds for the Project (Phase 1 and Phase 2) through December 31, 2016

(dollars in thousands)

Sources	
Construction Payments [(1)]	$ 1,139,110
Series 2010 Bond Proceeds	396,118
Equity [(2)]	54,250
Service Payments [(3)]	44,040
Interest Income [(4)]	4,486
Total Sources of Funds	$ 1,638,004
Uses	
Construction Expenditure [(5)]	$ 1,269,197
Interest During Construction	151,483
Company Overhead [(6)]	51,520
Project Costs Not Included in Construction Expenditures [(7)]	57,082
Operating Costs [(8)]	74,870
Insurance [(9)]	6,045
Costs of Issuance [(10)]	3,382
Equity Letter of Credit Fees	5,038
Debt Service Reserve Account [(11)]	16,389
Indenture Change In Law Contingency Account [(12)]	3,000
Total Uses of Funds	$ 1,638,004

(1) Timing for receipt of Construction Payments is based on an "Earned Value" calculation and subject to a maximum annual construction payment limit. See "FINANCING FOR THE PROJECT—Construction Payments."

(2) Equity Letters of Credit for the full equity amount required for the Project will be delivered at or prior to the issuance of the Series 2010 Bonds. See "FINANCING FOR THE PROJECT—Equity Contributions."

(3) Service Payments expected to be paid by the District to the Company under the Concession Agreement, assuming no deductions. Assumes the Project achieves revenue service commencement by the Revenue Service Target Date for each Commuter Rail Service.

(4) Series 2010 Bond proceeds will be invested in a portfolio of treasury bills and treasury notes. Assumes Construction Payments and Equity Contributions will be invested pursuant to Investment Agreements at a rate of 0.5 % per year. Investment Agreements have not been finalized and actual rate may be higher than 0.5% per year. See "FINANCING FOR THE PROJECT —Interest Earnings."

(5) Based on the fixed price established in the Design Build Contract.

(6) Company costs (personnel, office and administrative), ongoing Trustee Fees, and the Management Services Fee described in the Lockbox Account Agreement, cost and proceeds of Promissory Notes (see "FINANCING FOR THE PROJECT—Overview of Funding") and changes in working capital.

(7) Consists of up-front fees to Equity Participants (as described under '"FINANCING FOR THE PROJECT—Equity Contributions"); bid preparation costs; fees to due diligence consultants, legal counsel and financial advisors; and payments to Fluor and Macquarie as Project sponsors for development fees, equity placement fees and as a return for funds at risk during the two-year Project development period.

(8) Includes operations and maintenance advisory costs and ramp-up costs paid during the Interface Agreement, and actual operating costs incurred once each Commuter Rail Service commences revenue service.

(9) Includes insurance costs paid by the Company during the Design Build period pursuant to, as well as insurance costs paid by the Operator upon reaching the first Revenue Service Commencement Date.

(10) Underwriting Fee.

(11) Funded with Series 2010 Bond proceeds at time of Closing.

(12) In the event of a Change in Law, as defined in the Concession Agreement, the Company may be required to pay any incurred costs up to $3,000,000 during the Design Build Period and $3,000,000 during the Operating Period. Amounts in this Change In Law Contingency Account will be used to fund any such obligations. Payment of any incurred costs above either $3,000,000 limits is the obligation of the District.

Annual Debt Service Requirements for Phase 1 & Phase 2

(dollars in thousands)

Year[+]	Principal	Interest	Total Debt Service on the Series 2010 Bonds
2010	$ -	$ 10,020	$ 10,020
2011	-	23,577	23,577
2012	-	23,577	23,577
2013	-	23,577	23,577
2014	-	23,577	23,577
2015	-	23,577	23,577
2016	-	23,577	23,577
2017	-	23,577	23,577
2018	-	23,577	23,577
2019	9,435	23,456	32,891
2020	10,045	22,959	33,004
2021	10,695	22,449	33,144
2022	10,355	21,919	32,274
2023	11,695	21,375	33,070
2024	13,200	20,745	33,945
2025	14,900	20,018	34,918
2026	13,005	19,158	32,163
2027	14,615	18,287	32,902
2028	16,420	17,309	33,729
2029	18,450	16,209	34,659
2030	20,725	14,999	35,724
2031	17,230	13,808	31,038
2032	19,635	12,739	32,374
2033	22,380	11,521	33,901
2034	25,500	10,133	35,633
2035	29,060	8,551	37,611
2036	18,635	6,958	25,593
2037	21,035	5,805	26,840
2038	23,750	4,504	28,254
2039	26,810	3,034	29,844
2040	30,260	1,375	31,635
Total	$ 397,835	$ 515,950	$ 913,785

[+] Reflects payments made from January 16 of the listed year through January 15 of the subsequent year.

Projected Cash Flow and Debt Service Coverage for the Series 2010 Bonds During Operations for Phase 1 and Phase 2

(dollars in thousands)

Year[+]	Revenues†‡[(1)] (A)	Company Overhead Expenditure †‡[(2)] (B)	O&M Expenditure ‡[(3)] (C)	Renewal Works Expenditures ‡[(4)] (D)	Available for Debt Service†[(5)] (A+B+C+D)	Debt Service on the Series 2010 Bonds	Last 12 Months Total DSCR †[(6)]
2017	$ 82,854	($ 3,692)	($ 42,281)	($ 215)	$ 36,666	$ 23,577	1.56x
2018	82,056	(3,807)	(44,342)	(229)	33,678	23,577	1.43x
2019	105,855	(3,925)	(49,147)	(7,505)	45,278	32,891	1.38x
2020	115,340	(4,058)	(51,191)	(14,392)	45,698	33,004	1.38x
2021	102,665	(4,174)	(52,621)	(252)	45,618	33,144	1.38x
2022	103,618	(4,304)	(54,443)	(252)	44,618	32,274	1.38x
2023	108,778	(4,439)	(56,153)	(2,396)	45,790	33,070	1.38x
2024	123,641	(4,590)	(58,275)	(13,566)	47,210	33,945	1.39x
2025	151,558	(4,721)	(60,034)	(38,630)	48,172	34,918	1.38x
2026	115,026	(4,869)	(62,162)	(3,472)	44,524	32,163	1.38x
2027	115,953	(5,021)	(64,327)	(1,130)	45,475	32,902	1.38x
2028	125,109	(5,193)	(66,587)	(6,650)	46,679	33,729	1.38x
2029	138,889	(5,341)	(68,579)	(16,815)	48,154	34,659	1.39x
2030	189,005	(5,509)	(70,730)	(54,051)	58,714	35,724	1.64x
2031	130,351	(5,682)	(72,200)	(3,207)	49,261	31,038	1.59x
2032	136,522	(5,877)	(74,834)	(347)	55,465	32,374	1.71x
2033	152,301	(6,045)	(77,923)	(376)	67,957	33,901	2.00x
2034	189,760	(6,236)	(80,522)	(18,539)	84,464	35,633	2.37x
2035	237,999	(6,432)	(81,398)	(68,613)	81,555	37,611	2.17x
2036	156,178	(6,653)	(86,498)	(19,761)	43,265	25,593	1.69x
2037	156,569	(6,844)	(88,247)	(12,183)	49,295	26,840	1.84x
2038	172,128	(7,060)	(91,157)	(16,685)	57,226	28,254	2.03x
2039	210,037	(7,283)	(94,243)	(34,906)	73,605	29,844	2.47x
2040	239,665	(7,533)	(95,648)	(70,352)	66,132	31,635	2.09x

[+] Columns reflect cash flows in each calendar year (ending December 31), with the exception of debt service, which reflects cash flows beginning January 16 of the listed year through January 15 of the subsequent year.

† Calculated based upon provisions of the Concession Agreement.

‡ The indexed portion of Service Payments, payments to the O&M Contractor, Renewal Works and Company overhead costs are all linked to a weighted average inflation or growth index. The index is calculated as the weighted average of a Labor Index, a Materials Index and a Consumer Price Index, assuming the following annual percentage increases: Labor—3.3%; Materials—3.8%; and Consumer Price Index—2.5% and the following weighting percentages: Labor—50%, Materials—24.5%, and Consumer Price Index—25.5%.

(1) Revenues consist of: (a) Service Payments expected to be paid by the District to the Company under the Concession Agreement, assuming no deductions, and assuming that the Company achieves the Revenue Service Commencement Date by the Revenue Service Target Dates for each Commuter Rail Service; (b) Interest income, assuming an annual rate of return of 35 bps; and (c) Construction Payments scheduled to be received in 2017. Also includes any cash balance available in 2017 and remaining at the end of the Design Build Period. Service Payments received by the Company, including the TABOR Portion, are to be deposited in the Revenue Account and applied to payments of various costs and expenses. Absent a failure by the District to include an RTD Appropriation Obligation in its adopted annual budget and to appropriate the required funds, Service Payments deposited in the Revenue Account will be applied to operation and maintenance costs prior to payment of debt service. See "ACCOUNTS AND FLOW OF FUNDS."

(2) Company operating costs. Includes fees of the Trustee and the Account Bank.

(3) Fixed price, pursuant to the O&M Contract. Includes operating costs and O&M Contractor's insurance premiums.

(4) As provided in the O&M Contract.

(5) Availability of and withdrawals from reserves are not included. See "FINANCING FOR THE PROJECT" and "ACCOUNTS AND FLOW OF FUNDS."

(6) Total Debt Service Coverage Ratio (or Total DSCR) means for any 12-month period ending on a Calculation Date (or, prior to the first anniversary of the Last Revenue Service Commencement Date, for any shorter period from such Revenue Service Commencement Date annualized for a 12-month period ending on such Calculation Date) the ratio of A divided by B where: A = the Borrower's Free Cash Flow for such period; and B = the payment of all scheduled principal, fees and interest on the Bonds during such period.

FINANCING FOR THE PROJECT

Overview of Funding

As detailed under the section "SOURCES AND USES OF FUNDS AND PROJECTED FINANCIAL INFORMATION," the total cost of the Project is approximately $1.64 billion, to be funded with the proceeds of the Series 2010 Bonds, Equity Contributions due under the Equity Contribution Agreement, Construction Payments and Service Payments due under the Concession Agreement and interest earnings.

At the Closing Date, all of the proceeds of the Series 2010 Bonds will be available to pay Project Costs and all of the Equity Contributions will be committed through the delivery of Equity Letters of Credit.

The Concession Agreement requires the District to pay Construction Payments to the Company throughout the course of the Design Build Period. Under the Concession Agreement, each Construction Payment due will be based on an "Earned Value" calculation reflecting the value of the construction work completed to date and subject to a maximum annual limit, as defined in the Concession Agreement and presented in the table below under "Construction Payments." See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Construction Payments."

The Service Payments will be payable to the Company commencing after the first Revenue Service Commencement Date with respect to any Commuter Rail Service. The Service Payment due will be based on a schedule of values provided in the Concession Agreement and will be subject to adjustment to reflect the applicable Availability Factor and Performance Deductions." See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Service Payments."

During the Design Build Period, Project Costs, including the interest coming due on the Series 2010 Bonds, are to be paid from a combination of proceeds of the Series 2010 Bonds, Construction Payments, Equity Contributions and interest earnings. The proceeds of the Series 2010 Bonds will be deposited into the Indenture Construction Account, and Construction Payments received from the District and the Cash Contributions received under the Equity Letters of Credit will be deposited into the Borrower Construction Account under the Lockbox Account Agreement (except that draws on the Equity Letters of Credit by the Trustee to pay interest on the Bonds after giving effect to amounts available in the Debt Service Reserve Account will be deposited directly to the Debt Service Fund). Assuming that payments are received when expected under the Concession Agreement, the Company expects to maintain a positive aggregate cash balance in the Indenture Construction Account and the Borrower Construction Account under the Lockbox Account Agreement. This positive cash balance is expected to provide sufficient funding for the payment of interest on the Series 2010 Bonds through the Design Build Period absent the District's failure to make Construction Payments as and when due. To the extent the District fails to make Construction Payments when due, the Company is not obligated under the Design Build Contract to make payments to the Design Build Contractor for the applicable work performed until such time as the payment is made by the District to the Company; provided that such failure of the District to pay the Construction Payment does not result from a delay, breach or failure of the Company. In this case of non-payment, the Design Build Contractor would be instructed to suspend work, and payments by the Company for such work to the Design Build Contractor would be not be required until Construction Payments re-commence or Termination Compensation is received.

Construction Payments are subject to appropriation and in no instance may the Company require the District to appropriate any amounts. If the District does not appropriate its RTD Appropriation Obligation by the beginning of a fiscal year, the Company may suspend construction and service, as applicable, but such an event of non-appropriation in connection with an RTD Appropriation Obligation would not constitute an RTD Termination Event unless and until the non-appropriation continues until the end of the District's fiscal year, at which time the Company would be entitled to terminate the Concession Agreement and to collect an RTD Default Amount for termination. Should the District not appropriate funds to pay the RTD Default Amount, however, the Company, and thus the Trustee, may not receive a lump sum payment and may have to wait until 2017 to begin to receive the scheduled periodic TABOR Portion payments to which it would be entitled insofar as the District fails to pay the RTD Default Amount in full prior to the end of the scheduled Design Build Period. The Concession Agreement provides for the Company to continue to receive the scheduled periodic TABOR Portion payments until the RTD Default Amount is paid in full. However, because scheduled payment of the TABOR Portion does not commence until 2017, under certain circumstances, a termination of the Concession Agreement during the Design Build Period

could result in the Company not having sufficient funds available to pay interest as and when due on the Series 2010 Bonds. See "RISK FACTORS—Risks Associated With Termination During the Design Build Period."

To comply with applicable federal and state tax requirements with respect to the use of proceeds of the Series 2010 Bonds, the Company intends to issue Promissory Notes to document its obligation to pay certain costs of issuance related to the Series 2010 Bonds with respect to the Project or the financing of the Project, which costs would otherwise be paid on the Closing Date. The Promissory Notes are anticipated to be paid from the first Construction Payment received by the Company in the first quarter of 2011. The principal of such Promissory Notes otherwise is payable at the same level of priority as principal on the Series 2010 Bonds. The Promissory Notes are secured by the Collateral in accordance with the terms of the Security Documents (other than any security interest in the Debt Service Reserve Account). See "ACCOUNTS AND FLOW OF FUNDS" and "SECURITY FOR THE BONDS—Indenture."

The following table summarizes the projected receipt and expenditure of funds on an annual basis, assuming that the Phase 2 Notice to Proceed is issued by the District on or before December 31, 2011. For discussion of the plan of finance in the event the Phase 2 Notice to Proceed is not issued, see "Phase 1 Only Financing Plan" below.

Projected Annual Receipt and Expenditure of Funds

For Phase 1 & 2 Year [+]	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**Total**
				(dollars in thousands)				
Receipt of Sources of Funds†								
Construction Payments [(1)]	$ -	41,096	227,935	342,428	322,639	147,520	57,493	1,139,110
Series 2010 Bond Proceeds[(2)]	$ 396,118	-	-	-	-	-	-	396,118
Equity[(3)]	$ -	-	-	54,250	-	-	-	54,250
Service Payments[(4)]	$ -	-	-	-	-	-	44,040	44,040
Interest Income [(5)]	$ 262	529	715	977	1,206	655	142	4,486
Total Receipt of Funds	$ 396,380	41,625	228,650	397,655	323,845	148,175	101,675	1,638,004
Uses of Funds†								
Construction Costs[(6)]	($ 166,628)	(123,072)	(212,225)	(279,295)	(274,584)	(195,826)	(17,567)	(1,269,197)
O&M and SPV Costs[(7)]	($ 2,823)	(11,895)	(10,793)	(10,622)	(15,003)	(25,022)	(62,355)	(138,513)
Interest During Construction	($ 10,020)	(23,577)	(23,577)	(23,577)	(23,577)	(23,577)	(23,577)	(151,483)
Reserves[(8)]	($ 19,389)	-	-	-	-	-	-	(19,389)
Transaction Costs[(9)]	($ 60,464)	-	-	-	-	-	-	(60,464)
Changes in Working Capital	$ 9,183	(1,097)	8,429	5,607	(3,272)	(6,783)	(11,026)	1,041
Cash Draw/(Deposit)	($ 146,239)	118,017	9,516	(89,768)	(7,408)	103,033	12,850	-
Total Expenditures	($ 396,380)	(41,625)	(228,650)	(397,655)	(323,845)	(148,175)	(101,675)	(1,638,004)
Cash Balance (Ex Reserves)								
Cash (Draw)/Deposit	$ 146,239	(118,017)	(9,516)	89,768	7,408	(103,033)	(12,850)	
End of Year Cash Balance	$ 146,239	28,222	18,706	108,474	115,883	12,850	-	
Available Resources								
End of Year Cash Balance	$ 146,239	28,222	18,706	108,474	115,883	12,850	-	
Reserves	$ 19,389	19,389	19,389	19,389	19,389	19,389	19,389	
Equity Letter of Credit	$ 54,250	54,250	54,250	-	-	-	-	
Total Resources	$ 219,878	101,861	92,345	127,863	135,271	32,238	19,389	

[+] Columns reflect cash flows in each calendar year (ending December 31), with the exception of Interest During Construction, which reflects cash flows beginning January 16 of the listed year through January 15 of the subsequent year.

† Sources of Funds schedule reflects the timing of receipt of funds; the Uses of Funds reflects the timing of expenditure of funds.

(1) Phase 1 and Phase 2 Construction Payments to be received monthly.

(2) Series 2010 Bond Proceeds to be available at the Closing Date.

(3) Equity Letters of Credit for the full equity amount to be committed at issuance of the Series 2010 Bonds. The Equity Contribution Agreement requires cash contribution by the fifth anniversary of the issuance of the Series 2010 Bonds. The Company anticipates equity will be fully contributed in cash at the third anniversary of the issuance of the Series 2010 Bonds.

(4) Service Payments expected to be received prior to December 31, 2016, assuming no deductions and assuming the Revenue Service Commencement Date for Each Commuter Rail Service is achieved by the applicable Revenue Service Target Date.

(5) Series 2010 Bond proceeds will be invested in a portfolio of treasury bills and treasury notes. Assumes Construction Payments and Equity Contributions will be invested pursuant to Investment Agreements at a rate of 0.5 % per year. Investment Agreements have not yet been finalized and actual rate may be higher than 0.5% per year. See "—Interest Earnings."

(6) Based on the schedule of values provided in the fixed price Design Build Contract.

(7) Includes Company costs, ongoing Equity letter of credit fees, ongoing Bond Trustee Fees, ongoing Management Services Fees, cost and proceeds of promissory notes, advisory costs and ramp-up costs paid during construction, as per the Interface Agreement, and actual operating costs paid once each Commuter Rail Service reaches the applicable Revenue Service Commencement Date.

(8) Includes the Debt Service Reserve Account and the Indenture Change In Law Contingency Account and/or the Borrower Change In Law Contingency Account.

(9) Consists of up-front bond underwriting fees, fees to Equity Participants, due diligence consultants, legal counsel, financial advisors and payments to Fluor and Macquarie as Project sponsors for development fees, equity placement fees and as a return for funds at risk during the two-year Project development period.

Construction Payments

Pursuant to the Concession Agreement, during the Design Build Period, the Company is projected to receive, in respect of its construction related obligations, Construction Payments in an aggregate amount of $1,139,109,744. Construction Payments will be made monthly to the Company during the Design Build Period in an amount equal to the lesser of: (a) the "Earned Value" of the work as determined by reference to an Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule) and the Schedule of Values; and (b) the maximum annual limits shown below. The Company anticipates receipt of the maximum annual Construction Payment in each year.

The following tables reflect the Company's projection of the annual Construction Payments to be received during both Phase 1 and Phase 2 of the Project.

Year	Maximum Annual Payment for Phase 1	Maximum Annual Payment for Phase 2	Maximum Combined Payment
		(dollars in thousands)	
2010	$ -0-	$ 1,510	$ 1,510
2011	41,096	2,770	43,866
2012	149,057	75,382	224,439
2013	180,978	161,598	342,576
2014	151,396	171,660	323,056
2015	47,233	100,490	147,723
2016	10,615	45,324	55,939
Total	580,375	558,735	1,139,110

Year	Maximum Cumulative Annual Payment for Phase 1	Maximum Cumulative Annual Payment for Phase 2	Maximum Cumulative Combined Payment
		(dollars in thousands)	
2010	$ -0 -	$ 1,510	$ 1,510
2011	41,096	4,280	45,376
2012	190,153	79,662	269,815
2013	371,131	241,260	612,391
2014	522,527	412,920	935,447
2015	569,760	513,410	1,083,170
2016	580,375	558,735	1,139,110

The Concession Agreement provides that the District shall, no later than 30 days after the Company's delivery of an application for a Construction Payment, together with all supporting materials, pay to the Company any undisputed amount claimed by the Company in its application, together with 50% of any disputed amount. In the event the District fails to pay the Company any Construction Payment, or portion thereof, allocable to the scheduled payment to the Design Build Contractor other than for a reason attributable to the Company, the Company has the right to withhold the associated payment to the Design Build Contractor and to direct the Design Build Contractor to suspend work, mitigating cash flow mismatches during the Design Build Period. See "PRINCIPAL PROJECT AGREEMENTS—The Design Build Agreement" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD AGREEMENT."

The District plans to fund a substantial portion of its Construction Payment obligations for the Project from grants the District expects to receive from the Federal Transit Administration (the "FTA") as part of the FTA's New Starts Program, a federal funding program for major fixed-guideway projects under 49 U.S.C. 5309(d) ("Section 5309" or "New Starts"). The District plans to fund any Construction Payments not funded by these grants from other District revenues and from Construction Payments that are not conditioned on the receipt of federal funds. All

Construction Payments, regardless of source, are subject to annual appropriation by the District. If the Board fails, by the end of a Fiscal Year, to make an appropriation (by inclusion in its annual or any interim budget) of moneys for the purposes of any Construction Payment obligations in an amount sufficient to fund the Construction Payments estimated to fall due, or that have fallen due, during such Fiscal Year, such failure would constitute an RTD Termination Event under the Concession Agreement, triggering an obligation to pay Termination Compensation sufficient to cover all Lender's Liabilities then outstanding, including Series 2010 Bonds then outstanding as well as any amounts owed to the Design Build Contractor and associated breakage costs. See "PAYMENTS UNDER THE CONCESSION AGREEMENT – Termination Payments" and "SERIES 2010 BONDS—Redemption—Extraordinary Mandatory Redemption."

Service Payments During the Design Build Period

Pursuant to the Concession Agreement, during the Design Build Period, the Company is projected to receive, in respect of its operations and maintenance related obligations, Service Payments of $44,040,172. The timing and size of the Service Payments are based upon the assumption that the Revenue Service Commencement Date occurs on or before the applicable Revenue Service Target Date for each service.

Failure to achieve the Revenue Service Commencement Date by the Revenue Service Commencement Target Date would result in a reduction in Service Payments due during the Design Build Period. Such a delay, however, if not caused by the Company would cause the Design Build Contractor to be obligated to pay liquidated damages under the Design Build Contract. See APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT—Service Payments."

Equity Contributions

The Company. The Company is a Delaware limited liability company that was formed on April 26, 2010 for the purpose of undertaking the Project, including entering into the Concession Agreement. DTH is the direct holder of 100% of the outstanding membership interests of the Company. Fluor is the holder of 10% of the outstanding membership interests of DTH and Macquarie is the indirect holder of 90% of the outstanding membership interests of DTH; *provided* that the purchase of Macquarie's outstanding membership interest in DTH is subject to the arrangements set forth below.

Overview. Pursuant to an Equity Contribution Agreement to be entered into among the Equity Participants and the Trustee on the Closing Date, the Equity Participants shall agree to contribute to the Company their ratable share based upon their indirect ownership interest in the Company of the Total Equity Amount. "Total Equity Amount" means the amount of equity required, such that the debt-to-equity ratio based upon the principal amount of the Series 2010 Bonds after giving effect to the issuance of the Series 2010 Bonds and all drawings under the Equity Contribution Agreement shall be no more than 88:12 on the fifth anniversary of the Closing Date.

The obligations of the Equity Participants under the Equity Contribution Agreement are several and not joint. Equity under the Equity Contribution Agreement is required to be contributed on (a) the fifth anniversary of the Closing Date, (b) upon the occurrence of an Event of Default or (c) in the event that there are insufficient funds available, after giving effect to the drawing of all amounts available under the Debt Service Reserve Account pursuant to the Indenture, to pay interest on the Bonds on the next Interest Payment Date. The Equity Participants are permitted to contribute the amount of equity required to be contributed by them under the Equity Contribution Agreement at any time. Any contributions of equity by an Equity Participant shall be credited to the obligation of the Equity Participant to contribute equity pursuant to the Equity Contribution Agreement.

Equity Participants shall be entitled to accrue an amount equal to 3% of contributed equity (the "Management Services Fee"). The Management Services Fee shall be due and payable to the Management Services Fee Account under the Lockbox Account Agreement and shall be applied in accordance with the requirements of the Lockbox Account Agreement. See "ACCOUNTS AND FLOW OF FUNDS—Description of Lockbox Project Accounts Under the Lockbox Account Agreement—Management Services Fee Account."

The obligations of the Equity Participants to contribute their respective portion of the Total Equity Amount (as calculated on the Closing Date) shall be supported either by on-demand Letters of Credit issued on the Closing Date. Each Letter of Credit must be issued by an Acceptable Bank(s) (minimum rating of at least "A-" by S&P and "A3" by Moody's). Each Letter of Credit will be reduced over time by the amount of cash equity received by the Trustee. Each Letter of Credit shall be drawn upon by the Trustee if: (a) the Equity Participant does not contribute equity as required by the Equity Contribution Agreement; (b) the issuer of the Letter of Credit fails to satisfy the rating requirements of an Acceptable Bank and such issuer has not been replaced by an Acceptable Bank within 90 days of such failure; or (c) the Letter of Credit is scheduled to expire and has not been replaced with an alternate Letter of Credit from an Acceptable Bank at least 15 days prior to such expiration date.

In the event that the Phase 2 Notice to Proceed is not given, the Company may pursue the issuance of Additional Phase 1 Parity Bonds. In such an event, additional equity may be required but the Equity Participants have no commitment to contribute such additional equity. See "Phase 1 Only Financing Plan." Any additional obligations of the Equity Participants would also be secured by additional Letters of Credit.

Expected Transfer of Macquarie's Ownership Interests.

"Macquarie FasTracks Holdings, LLC ("Macquarie Holding"), has entered into a letter agreement (the "LBG Letter Agreement") with Bank of Scotland PLC ("Bank of Scotland") and its wholly-owned subsidiary, Uberior Infrastructure Investments (No 4) Limited, dated as of July 9, 2010, whereby Bank of Scotland and the Uberior Infrastructure Investments (No 4) Limited have committed to purchase, or cause their permitted assignee, which permitted assignee was later designated Uberior Infrastructure Investments (No 4) USA LLC (the "LBG Entity"), to purchase, 50% of Macquarie's outstanding membership interest in DTH, such that the LBG Entity will be the holder of 45% of the outstanding membership interests in DTH (the "LBG Commitment") as of Financial Close. The LBG Commitment is subject to the conditions that the drafts of the Material Project Contracts and certain other documents delivered to Bank of Scotland are not adversely amended in any material respect and the financial model, dated as of May 12, 2010, delivered by Macquarie Holding to Bank of Scotland is not amended in a manner that would have adversely effected certain financial assumptions of Bank of Scotland prior to Financial Close. If the LBG Entity fails to (a) fulfill its purchase obligations under the LBG Letter Agreement or (b) to cause the LBG Entity, as applicable, to enter into the Amended and Restated Limited Liability Agreement of DTH as a member of DTH on the terms and subject to conditions set forth in the term sheet attached to the LBG Letter Agreement, then Macquarie Holding reserves the right to terminate the LBG Letter Agreement, upon which Bank of Scotland and Uberior Infrastructure Investments (No 4) Limited shall be required to pay Macquarie Holding a termination fee of $4,500,000."

Macquarie Holding has also entered into a letter agreement (the "Laing Letter Agreement") with John Laing Investments Ltd. ("John Laing") and its wholly-owned subsidiary, Denver Rail (Eagle) Holdings Inc., (the "JL Entity"), dated as of July 9, 2010, whereby John Laing and the JL Entity have committed to purchase 50% of Macquarie's outstanding membership interest in DTH, such that the JL Entity will be the holder of 45% of the outstanding membership interests in DTH (the "Laing Commitment") as of Financial Close. The Laing Commitment is subject to the conditions that the Material Project Contracts and certain other documents are not amended in any material respect and there is no change in parties to the Material Project Contracts. If the JL Entity fails to fulfill its purchase obligations under the JL Letter Agreement, then Macquarie Holding reserves the right to terminate the JL Letter Agreement, upon which John Laing and the JL Entity shall be required to pay Macquarie Holding a termination fee of $2,500,000. Additionally, if Financial Close fails to occur and (a) the Proposer's Security is not returned and (b) such failure was caused by John Laing and the JL Entity failing to meet its purchase obligations under the JL Letter Agreement, then John Laing and the JL entity shall be required to pay all of Macquarie Holding's losses, costs and expenses as a result of such failure in excess of $2,500,000 but up to a limit of $2,000,000.

If, and to the extent that, the equity transfers described above are not completed, Macquarie would remain obligated to fund equity for the Project, subject to the same provisions described above under "—Equity Contributions." Macquarie would be permitted subsequently to transfer its ownership interests in DTH, subject, however, to the "Change of Control" provisions in the both the Concession Agreement and the Loan Agreement. See APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" and "SECURITY FOR THE BONDS—Loan Agreement—Events of Default."

Equity Participation in DTH After Macquarie Equity Transfers

Fluor	10.00%
Uberior Infrastructure Investments (No 4) USA LLC	45.00%
Denver Rail (Eagle) Holdings Inc	45.00%
Macquarie	0.00%
TOTAL	**100%**

A $1.7 million up-front fee will be paid to Equity Participants representing 3% of equity committed to the Project.

Macquarie and Fluor will also receive additional fees as Project sponsors in connection with the development of the Project. See note (7) to the table entitled "Projected Sources and Uses of Funds for the Project (Phase 1 and Phase 2) through December 31, 2016."

See "PROJECT PARTICIPANTS—Equity Participants" for additional information regarding LBG and Uberior Infrastructure Investments (No. 4) Limited, John Laing Investments Ltd. and their respective commitments to Macquarie.

Interest Earnings

The Company intends to invest all or substantially all of the amounts on deposit in the Lockbox Project Accounts established under the Lockbox Account Agreement pursuant to one or more investment agreements (the "Investment Agreements") with designated financial institutions (the "Deposit Agreement Banks"). The plan of finance for the Project described herein assumes the investment of funds pursuant to the Investment Agreements resulting in an average annual interest rate of 0.5% per year through December 2016, that all funds are invested and transferred in accordance with the requirements of the Investment Agreements and that no break fees are incurred with respect to the Investment Agreements. Under certain circumstances, including where a specified minimum balance is not maintained or where the depositor causes an event of default, the depositor may owe a breakage penalty or other amount to the Deposit Agreement Bank.

Operating Period Cash Flows

Commencing with the Revenue Service Commencement Date with respect to the East Corridor Service, the Company will be entitled to receive Service Payments on a monthly basis. The Service Payments will be the primary source of revenue to the Company during the operation of the Project. Pursuant to the Concession Agreement, the Service Payment due will be based on a schedule of values provided in the Concession Agreement and will be subject to adjustment to reflect the applicable Availability Factor and Performance Deductions but will not be dependent on ridership levels or farebox collections.

Service Payments will have two components: the TABOR Portion, which will be a fixed annual amount structured to exceed scheduled debt service on the Series 2010 Bonds and to provide a return on contributed equity, and the RTD Appropriation Obligation structured to cover operations and maintenance costs of the Project. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Service Payments."

The Company has structured the TABOR Portion of the Service Payment for each year of operations to be at least equal to the debt service on the Series 2010 Bonds (plus a return on contributed equity). See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion."

The O&M Contract requires the O&M Contractor to perform all of the Company's operations and maintenance obligations under the Concession Agreement, including all renewal works for a fixed price. As discussed above, under the Concession Agreement Service Payments to the Company may be subject to reduction based on the Company's failure to satisfy specified availability and performance standards. The current O&M Contract is structured such that any performance-based reductions in Service Payments are to be passed through to the O&M Contractor as a reduction in the amounts payable by the Company to the O&M Contractor.

The chart below illustrates the projected Service Payments, Operating Expenses and debt service for the Project as well as the forecasted debt service coverage ratios, based on the projected debt service shown in the table following the chart.

Financial Forecasts for Phase 1 and Phase 2

(dollars in thousands)

Year[+]	TABOR Payments [(1)]	Non-TABOR Payments [(2)]	Interest Income	Fees and Operating Expenses [(3)]	Operating Period Cash Flow [(4)]	Bonds Interest Expense [(5)]	Principal Repayment	Reserves [(6)]	Cashflow to Equity [(7)]	LLCR [(8)]	DSCR [(9)]
2017	$ 40,954	$ 41,786	$ 115	($ 46,188)	$ 36,666	($ 23,577)	$ -	($ 1,021)	($ 17,527)	1.65x	1.56x
2018	34,437	47,510	109	(48,377)	33,678	(23,577)	-	759	(10,860)	1.65x	1.43x
2019	45,388	60,346	121	(60,578)	45,278	(23,456)	(9,435)	65	(12,451)	1.68x	1.38x
2020	45,813	69,405	122	(69,642)	45,698	(22,959)	(10,045)	(98)	(12,596)	1.70x	1.38x
2021	46,264	56,279	123	(57,047)	45,618	(22,449)	(10,695)	355	(12,828)	1.73x	1.38x
2022	44,618	58,880	120	(59,000)	44,618	(21,919)	(10,355)	(359)	(11,985)	1.76x	1.38x
2023	45,790	62,866	122	(62,988)	45,790	(21,375)	(11,695)	(433)	(12,287)	1.79x	1.38x
2024	47,210	76,305	126	(76,430)	47,210	(20,745)	(13,200)	(464)	(12,801)	1.83x	1.39x
2025	49,812	101,616	129	(103,385)	48,172	(20,018)	(14,900)	1,252	(14,507)	1.87x	1.38x
2026	44,524	70,383	120	(70,502)	44,524	(19,158)	(13,005)	(394)	(11,968)	1.92x	1.38x
2027	45,475	70,356	122	(70,478)	45,475	(18,287)	(14,615)	(424)	(12,149)	1.98x	1.38x
2028	46,679	78,305	125	(78,430)	46,679	(17,309)	(16,420)	(460)	(12,489)	2.05x	1.38x
2029	48,154	90,607	128	(90,735)	48,154	(16,209)	(18,450)	(471)	(13,024)	2.15x	1.39x
2030	61,423	127,442	140	(130,291)	58,714	(14,999)	(20,725)	2,335	(25,325)	2.21x	1.64x
2031	49,261	80,966	123	(81,089)	49,261	(13,808)	(17,230)	(2,636)	(15,587)	2.31x	1.59x
2032	55,465	80,917	141	(81,057)	55,465	(12,739)	(19,635)	(3,792)	(19,299)	2.46x	1.71x
2033	67,957	84,179	164	(84,344)	67,957	(11,521)	(22,380)	(3,778)	(30,278)	2.63x	2.00x
2034	84,464	105,104	192	(105,296)	84,464	(10,133)	(25,500)	(3,790)	(45,041)	2.79x	2.37x
2035	97,323	140,475	200	(156,444)	81,555	(8,551)	(29,060)	[(10)]15,768	(59,712)	2.52x	2.17x
2036	43,848	112,222	107	(112,913)	43,265	(6,958)	(18,635)	165	(17,836)	2.63x	1.69x
2037	49,295	107,162	113	(107,274)	49,295	(5,805)	(21,035)	(672)	(21,782)	2.97x	1.84x
2038	57,226	114,781	122	(114,903)	57,226	(4,504)	(23,750)	(680)	(28,292)	3.68x	2.03x
2039	73,605	136,293	138	(136,432)	73,605	(3,034)	(26,810)	(613)	(43,148)	7.07x	2.47x
2040	82,267	157,251	147	(173,533)	66,132	(1,375)	(30,260)	13,966	(48,463)	NA	2.09x

Notes to previous Table:

+ Columns reflect cash flows in each calendar year (ending December 31), with the exception of debt service, which reflects cash flows beginning January 16 of the listed year through January 15 of the subsequent year.

(1) In accordance with the schedule of the TABOR Portion set forth in the Concession Agreement.

(2) Consists of all Service Payments received other than the TABOR Portion, as set forth in the Concession Agreement. Also includes Construction Payments received in 2017 and transfer of construction period cash balance.

(3) This figure includes Company costs, overhead, ongoing bond Trustee Fees, changes in working capital, O&M Expenditures, Insurance and renewal works costs as per the O&M Agreement.

(4) Operating Cash Flow should equal the sum of the TABOR and Non-TABOR Portion and Interest Income less Fees and Operating Expenses.

(5) Series 2010 Bond proceeds will be invested in a portfolio of treasury bills and treasury notes. Assumes Construction Payment, Equity Contributions and other available funds will be invested pursuant to Investment Agreements at a rate of 0.5 % per year up to December 31, 2016. Investment Agreements have not been finalized and actual rate may be higher than 0.5% per year. The assumed interest rate on funds invested pursuant to Investment Agreements after December 31, 2016, is 35 basis points. See "—Interest Earnings."

(6) Includes movements in Debt Service Reserve Account, Indenture Change In Law Contingency Account and/or Borrower Change In Law Contingency Account releases, and working capital reserve account.

(7) Cashflow to Equity Participants is not distributed until March 31, 2017. The first distribution includes an amount equal to the total Management Services Fee, which is retained in the Management Services Fee Account until December 31, 2016. See "ACCOUNTS AND FLOW OF FUNDS."

(8) LLCR or Loan Life Coverage Ratio means the ratio, as of any Calculation Date, of (a) the present value of Borrower's Free Cash Flow from such Calculation Date to the date that is the final maturity of the Bonds, discounted at the all-in interest rate applicable to the Bonds plus the amounts credited to the Project Accounts as of such Calculation Date to (b) the principal amount of the Bonds then Outstanding.

(9) Debt Service Coverage Ratio or DSCR means for any 12-month period ending on a Calculation Date (or, prior to the first anniversary of the Last Revenue Service Commencement Date, for any shorter period from such Revenue Service Commencement Date annualized for a 12-month period ending on such Calculation Date) the ratio of A divided by B where: A = the Borrower's Free Cash Flow for such period; and B = the payment of all scheduled principal, fees and interest on the Series 2010 Bonds during such period.

(10) Assumes use of working capital to fund the midlife renewal overhaul of the rolling stock. Although there is no maintenance reserve for most capital expenditures during the Operating Period, the Company expects to accommodate the unusually large expenditures required for the midlife overhaul by reserving approximately $10.9 million in the working capital reserve from 2031 through 2034 and then releasing that amount for the renewal works in 2035. This reserve does not form part of the DSCR calculation and is not deposited to the Debt Service Reserve Account. Also assumes release from the Debt Service Reserve Account due to final maturity of the Series 2010 Term Bonds maturing January 15, 2034.

Note: Service Payments received by the Company, including the TABOR Portion, will be deposited in the Revenue Account and applied to payments of various costs and expenses. Absent a failure by the District to appropriate an RTD Appropriation Obligation in its adopted annual budget, Service Payments deposited in the Revenue Account will be applied to operation and maintenance costs prior to payment of debt service. See "ACCOUNTS AND FLOW OF FUNDS."

The following chart compares the annual TABOR Portion projected by the Company to be paid in each year to annual debt service on the Series 2010 Bonds.

TABOR Portion Compared to the Total Debt Service

Year[+]	Total Service Payment [†±] [(1)]	TABOR Portion[(1)]	Total Debt Service[(2)]	TABOR / Total Debt Service
2010	$ -	$ -	$ 10,020,246	NA
2011	-	-	23,577,050	NA
2012	-	-	23,577,050	NA
2013	-	-	23,577,050	NA
2014	-	-	23,577,050	NA
2015	-	-	23,577,050	NA
2016	-	-	23,577,050	NA
2017	77,813,182	40,953,635	23,577,050	1.74x
2018	81,613,681	34,436,829	23,577,050	1.46x
2019	105,734,187	45,388,149	32,891,300	1.38x
2020	115,218,258	45,813,412	33,004,338	1.39x
2021	102,542,577	46,263,740	33,144,213	1.40x
2022	103,498,450	44,618,361	32,274,213	1.38x
2023	108,655,937	45,790,286	33,070,000	1.38x
2024	123,515,147	47,210,467	33,945,394	1.39x
2025	151,428,588	49,812,129	34,917,722	1.43x
2026	114,906,666	44,523,987	32,162,813	1.38x
2027	115,830,764	45,475,113	32,902,138	1.38x
2028	124,983,573	46,678,612	33,728,725	1.38x
2029	138,761,124	48,154,170	34,659,413	1.39x
2030	188,864,936	61,422,787	35,724,400	1.72x
2031	130,227,357	49,261,307	31,037,650	1.59x
2032	136,381,667	55,464,975	32,374,050	1.71x
2033	152,136,737	67,957,415	33,901,050	2.00x
2034	189,567,668	84,463,655	35,632,950	2.37x
2035	237,798,479	97,323,155	37,611,350	2.59x
2036	156,070,719	43,848,307	25,593,350	1.71x
2037	156,456,298	49,294,601	26,840,300	1.84x
2038	172,006,209	57,225,684	28,253,750	2.03x
2039	209,898,575	73,605,255	29,844,200	2.47x
2040	239,518,594	82,267,193	31,635,350	2.60x
Total	3,433,429,372	1,307,253,225	913,785,312	NA

[+] Columns reflect cash flows in each calendar year (ending December 31), with the exception of debt service, which reflects cash flows beginning January 16 of the listed year through January 15 of the subsequent year.

± Calculated based on provisions of the Concession Agreement.

† The indexed portion of Service Payments, payments to the O&M Contractor, Renewal Works and Company overhead costs are all linked to a weighted average inflation or growth index. The index is calculated as the weighted average of a Labor Index, a Materials Index and a Consumer Price Index, assuming the following annual percentage increases: Labor—3.3%; Materials—3.8%; and Consumer Price Index—2.5% and the following weighting percentages: Labor—50%, Materials—24.5%, and Consumer Price Index—25.5%

(1) In accordance with schedule attached to the Concession Agreement.

(2) Interest on the Series 2010 Bonds during the Design Build Period and prior to receipt by the Company of Service Payments is expected to be paid from proceeds of the Series 2010 Bonds and Construction Payments received from the District. See "—Overview of Funding."

Phase 1 Only Financing Plan

In the event that the Phase 2 Notice to Proceed is not issued by the District, the District may either increase the Maximum Annual Phase 1 Construction Payment Amounts so as to provide additional funding in an amount equal to the Phase 1 Excess Financing Amount or request the Company to secure debt financing from Lenders and equity support from the Shareholders in an amount equal to the Phase 1 Excess Financing Amount on terms consistent in all material respects with the Financial Model as at Financial Close. The District has indicated to the Company that its current expectation would be to provide the required additional funding and not request the Company to do so.

Upon delivery of a request from the District, the Company is required to use reasonable efforts to arrange such financing and/or equity support. The Company expects that if the District requests the Company to arrange for the required financing, Additional Phase 1 Parity Bonds, secured by an Additional TABOR Portion, would be issued. See "SECURITY FOR THE BONDS—INDENTURE—Issuance of Additional Parity Bonds."

The Concession Agreement restricts the issuance of additional debt by the District so that Additional TABOR Portion capacity is required to be made available for the Company's exclusive use as necessary to achieve such financing, but there is no assurance that such reserved capacity will be sufficient to achieve the financing. If (a) the District does not increase the Maximum Annual Phase 1 Construction Payment Amounts so as to provide additional funding in an amount equal to the Phase 1 Excess Financing Amount or (b) the Company is unable to secure funds to finance the Phase 1 Excess Financing Amount within 90 days after the delivery of a request by the District, a Relief Event will occur under the Concession Agreement, with the result that if the Concessionaire stops construction due to insufficient funds to pay the Design Build Contractor, that stoppage will not constitute a Concessionaire Termination Event, and the District will be obligated to commence making Service Payments on the date on which the Revenue Service Commencement Date would have occurred but for the occurrence of the Relief Event. Such Service Payments will be made in full, without deduction for the application of the Availability Factor or Performance Deductions.

The Phase 2 construction cost identified in the Concession Agreement is less than the amount of Phase 2 Construction Payments required by the Company to complete Phase 1 work. Consequently, should the Phase 2 Notice to Proceed not be issued, additional funding would be required to complete Phase 1 of the Project.

Projected Sources and Uses of Funds for Phase 1 Only and a Financial Forecast for Phase 1 Only are shown on the following tables.

Projected Sources and Uses of Funds for Phase 1 Only through December 31, 2016*

(dollars in thousands)

Sources [1]	
Construction Payments	$ 554,051
Series 2010 Bond Proceeds	396,118
Additional Phase 1 Parity Bonds	411,806
Equity	110,406
Service Payments	37,937
Interest Income	9,456
Total Sources of Funds	$ 1,519,775

Uses[1]	
Construction Expenditure	$ 1,003,071
Interest During Construction	282,437
Company Overhead	59,917
Project Costs Not Included in Construction Expenditures	57,082
Operating Costs	62,341
Insurance	6,045
Costs of Issuance	6,882
Equity Letter of Credit Fees	7,884
Debt Service Reserve Account	31,115
Indenture Change In Law Contingency Account	3,000
Total Uses of Funds	$ 1,519,775

* Subject to pricing of Additional Phase 1 Parity Bonds.

(1) Same footnotes apply generally as in the table entitled "Projected Sources and Uses of Funds for Phase 1 & Phase 2."

Projected Annual Receipt and Expenditure of Funds-- Phase 1 Only*

(dollars in thousands)

	2010	2011	2012	2013	2014	2015	2016	Total
Receipt of Sources of Funds†								
Construction Payments [(1)]	$ -	41,096	149,057	180,978	151,396	31,524	-	554,051
Bond Proceeds[(2)]	$ 396,118	411,806	-	-	-	-	-	807,924
Equity[(3)]	$ -	-	-	110,406	-	-	-	110,406
Service Payments[(4)]	$ -	-	-	-	-	-	37,937	37,937
Interest Income [(5)]	$ 262	529	2,537	2,402	2,246	1,141	338	9,456
Total Receipt of Funds	$ 396,380	453,432	151,594	293,786	153,642	32,666	38,276	1,519,775
Uses of Funds†								
Construction Costs[(6)]	($ 166,628)	(123,072)	(158,422)	(202,205)	(207,421)	(139,787)	(5,537)	(1,003,071)
O&M and SPV Costs[(7)]	($ 2,823)	(11,895)	(12,130)	(12,166)	(16,054)	(25,134)	(56,237)	(136,438)
Interest During Construction	($ 10,020)	(23,577)	(49,768)	(49,768)	(49,768)	(49,768)	(49,768)	(282,437)
Reserves[(8)]	($ 19,389)	(14,727)	-	-	-	-	-	(34,115)
Transaction Costs[(9)]	($ 60,464)	(3,500)	-	-	-	-	-	(63,964)
Changes in Working Capital	$ 9,183	(1,097)	3,028	4,949	(173)	(10,657)	(4,981)	251
Cash Draw/(Deposit)	($ 146,239)	(275,562)	65,698	(34,596)	119,773	192,680	78,247	-
Total Expenditures	($ 396,380)	(453,432)	(151,594)	(293,786)	(153,642)	(32,666)	(38,276)	(1,519,775)
Cash Balance (Excluding Reserves)								
Cash (Draw)/Deposit	$ 146,239	275,562	(65,698)	34,596	(119,773)	(192,680)	(78,247)	
End of Year Cash Balance	$ 146,239	421,801	356,104	390,700	270,927	78,247	-	
Available Resources								
End of Year Cash Balance	$ 146,239	421,801	356,104	390,700	270,927	78,247	-	
Reserves	$ 19,389	19,389	19,389	19,389	19,389	19,389	19,389	
Equity Letter of Credit	$ 110,406	110,406	110,406	-	-	-	-	
Total Resources	$ 276,034	551,596	485,898	410,088	290,316	97,636	19,389	

* Subject to pricing of Additional Phase 1 Parity Bonds.

(1) Same footnotes apply generally as in the table entitled "Projected Annual Receipt and Expenditure of Funds for Phase 1 & Phase 2."

(2) $54,250,000 of equity is committed at closing of the Series 2010 Bonds.

Financial Forecasts for Phase 1 Only*[(1)]

(dollars in thousands)

Year	TABOR Payments [(1)]	Non-TABOR Payments [(2)]	Interest Income	Fees and Operating Expenses [(3)]	Operating Period Cash Flow [(4)]	PABs Interest Expense [(5)]	Principal Repayment	Reserves [(6)]	Cashflow to Equity [(7)]	LLCR [(8)]	DSCR [(9)]
2017	$ 84,755	$ 28,265	$ 218	($ 36,951)	$ 76,287	($ 49,768)	$ -	($ 2,493)	($ 35,136)	1.68x	1.53x
2018	75,087	38,496	209	(40,104)	73,689	(49,768)	-	1,399	(25,319)	1.68x	1.48x
2019	89,255	49,045	225	(49,367)	89,158	(49,595)	(12,802)	34	(26,795)	1.70x	1.43x
2020	90,214	56,902	227	(57,223)	90,121	(48,877)	(13,854)	(224)	(27,165)	1.72x	1.44x
2021	91,201	45,260	228	(46,105)	90,585	(48,117)	(15,004)	253	(27,717)	1.74x	1.44x
2022	89,920	47,455	226	(47,681)	89,920	(47,305)	(15,229)	(508)	(26,879)	1.76x	1.44x
2023	91,575	50,298	230	(50,528)	91,575	(46,441)	(17,209)	(596)	(27,330)	1.79x	1.44x
2024	93,555	62,067	235	(62,302)	93,555	(45,449)	(19,437)	(663)	(28,005)	1.82x	1.44x
2025	96,639	78,627	239	(80,434)	95,071	(44,312)	(21,956)	1,040	(29,844)	1.85x	1.43x
2026	92,035	57,360	231	(57,591)	92,035	(42,989)	(20,987)	(605)	(27,454)	1.88x	1.44x
2027	93,800	56,505	236	(56,741)	93,800	(41,595)	(23,645)	(694)	(27,866)	1.93x	1.44x
2028	99,209	60,743	244	(60,986)	99,209	(40,024)	(26,635)	(737)	(31,813)	1.98x	1.49x
2029	109,432	73,889	255	(74,144)	109,432	(38,254)	(30,005)	(676)	(40,496)	2.02x	1.60x
2030	128,070	97,203	273	(100,031)	125,515	(36,286)	(33,797)	1,973	(57,405)	2.04x	1.79x
2031	107,023	64,998	250	(65,249)	107,023	(34,236)	(32,018)	(2,546)	(38,223)	2.09x	1.62x
2032	114,453	65,354	267	(65,621)	114,454	(32,197)	(36,363)	(3,210)	(42,682)	2.16x	1.67x
2033	120,984	67,788	285	(68,073)	120,984	(29,882)	(41,304)	(3,357)	(46,441)	2.25x	1.70x
2034	135,106	85,513	310	(85,823)	135,106	(27,252)	(46,908)	(3,412)	(57,535)	2.36x	1.82x
2035	143,613	105,088	319	(116,927)	132,093	(24,265)	(53,277)	[(10)]11,300	(65,851)	2.41x	1.70x
2036	112,889	92,297	257	(92,809)	112,635	(21,083)	(46,031)	(761)	(44,760)	2.56x	1.68x
2037	146,769	84,378	289	(84,667)	146,769	(18,132)	(52,026)	(1,211)	(75,400)	2.74x	2.09x
2038	160,178	89,006	307	(89,314)	160,178	(14,797)	(58,809)	(1,751)	(84,822)	3.02x	2.18x
2039	181,039	107,564	332	(107,897)	181,039	(11,027)	(66,470)	(1,803)	(101,740)	3.70x	2.34x
2040	196,868	115,835	349	(131,690)	181,362	(6,765)	(75,125)	13,834	(113,306)	6.54x	2.21x

* Subject to pricing of Additional Phase 1 Parity Bonds.

(1) Same footnotes apply generally as in the table entitled "Financial Forecast for Phase 1 & Phase 2."

Comparison of Phase 1 Only & Phase 1 & Phase 2

If the Phase 2 Notice to Proceed is not issued, the Gold Line and the completion of the NWES will not be implemented, reducing the scope of the Construction Work by $266 million and reducing Construction Payments received from the District by $585 million. Given that Construction Payments with respect to Phase 2 are significantly larger than the Phase 2 Construction Cost, additional capital will be required to complete Phase 1 as reflected in the table below.

The following table compares estimated sources and uses of funds for Phase 1 and Phase 2 with Phase 1 Only if the Excess Phase 1 Financing Amount is funded with Additional Phase 1 Parity Bonds.

Financing of Excess Phase 1 Financing Amount with Additional Parity Bonds—Select Sources and Uses*†

(dollars in thousands)

	Phases 1&2	Phase 1 Only	Difference (Phase 1 Only less Phases 1&2)
Sources			
Construction Payments	$1,139,110	$554,051	($585,058)
Series 2010 Bonds	396,118	396,118	-
Additional Phase 1 Parity Bonds	-	411,806	411,806
Equity	54,250	110,406	56,155
Service Payments	44,040	37,937	(6,103)
Interest Income	4,486	9,456	4,970
Total Sources	1,638,004	1,519,775	(118,230)
Uses			
Construction Cost	$1,269,197	$1,003,071	($266,126)
Interest During Construction	151,483	282,437	130,954
Operating and Company Costs	132,435	128,303	(4,132)
Fees and Reserves	84,890	105,964	21,074
Total Uses	1,638,004	1,519,775	(118,230)

*Subject to pricing of Additional Phase 1 Parity Bonds.
† Totals may not add up due to rounding.

The following table compares estimated sources and uses of funds for Phase 1 and Phase 2 with Phase 1 Only if the Excess Phase 1 Financing Amount is funded with funds provided by the District.

Financing of Excess Phase 1 Financing Amounts with District Funds—Select Sources and Uses Items †

(dollars in thousands)

	Phases 1&2	Phase 1 Only	Difference (Phase 1 Only less Phases 1&2)
Sources			
Construction Payments	$1,139,110	$554,051	($585,058)
Series 2010 Bonds	396,118	396,118	-
Additional RTD Payments	-	320,000	320,000
Equity	54,250	54,250	-
Service Payments	44,040	37,937	(6,103)
Interest Income	4,486	4,790	304
Total Sources	1,638,004	1,367,147	(270,857)
Uses			
Construction Cost	$1,269,197	$1,003,071	($266,126)
Interest During Construction	151,483	151,483	-
Operating and Company Costs	132,435	127,703	(4,732)
Fees and Reserves	84,890	84,890	(0)
Total Uses	1,638,004	1,367,147	(270,857)

† Totals may not add up due to rounding.

Federal Funding

General. The District plans to pay a substantial portion of its Construction Payments for the Project from funds the District expects to receive from the Federal Transit Administration (the "FTA") as part of the FTA's New Starts Program, a federal funding program for major fixed-guideway projects under 49 U.S.C. 5309(d) ("Section 5309" or "New Starts"). New Starts is part of a broader federal transit program (the "Federal Transit Program") created by Congress, most recently under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU"), enacted in 2005.

Under the Federal Transit Program, contract authority and budget authority are required before revenues may be committed and spent by the FTA. These authorizations are provided through a two-step process. First, authorizing legislation provides contract authority, describes the purposes of the Federal Transit Program and sets a proposed level of spending in advance of appropriations. Second, appropriations legislation provides the budget authority to obligate federal revenues for a specific purpose. The authorizations and appropriations under SAFETEA-LU expired on September 30, 2009 but after several short-term extensions, appropriations and authorizations were made for another year.

FTA Approval Process. Funding of the Federal Transit Program is made from appropriated amounts available in the Mass Transit Account (the "MTA") of the Highway Trust Fund (funded from taxes on motor fuels) and from amounts appropriated from the General Fund of the U.S. Treasury. Although the District receives grants under FTA programs funded from the MTA, the District expects that most of its funding for the Project will be under the New Starts program, one of three FTA programs that provides SAFETEA-LU funds from the General Fund of the U.S. Treasury. Under SAFETEA-LU, an approved grant or contract, such as full funding grant agreement under New Starts, is a contractual obligation of the federal government to pay the federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

The Penta-P Program. Two components of the Project, the East Corridor and the Gold Line, together form one of three rail projects the FTA selected to participate in the FTA's Public-Private Partnership Pilot Program ("Penta-P"), authorized by Congress as part of SAFETEA-LU. Penta-P is not a funding program but permits the project sponsors to use forms of public-private procurement to satisfy some of the criteria that must be met to qualify for funding under Section 5309. Once the criteria are met and the New Starts program ranking and approval process is completed with at least a "medium" rating, the FTA establishes the maximum level of New Starts funding that a grant applicant is entitled to receive under that grant.

Full Funding Grant Agreements. Section 5309 requires that funding for New Starts projects (including Penta-P projects) be carried out through full funding grant agreements ("FFGAs") and prescribes the general terms to be included in each agreement. Among the requirements for Penta-P projects is that a public-private agreement satisfactory to the FTA be executed by both parties. Each FFGA must establish the terms of participation by the federal government, establish the maximum amount of federal financial assistance, cover the period of time for completing the project, including a period extending beyond the period of an authorization, and must make timely and efficient management of the project easier according to federal law. The FFGAs also must contain an acknowledgment that the FTA's commitment of financial assistance is contingent upon the appropriation of funds and that the commitment of funds does not constitute an obligation of the United States. The FTA is required to notify Congress at least 60 days before entering into an FFGA.

Each February, the Secretary of Transportation is required to submit to Congress an annual report that includes (a) a proposal of allocations among the applicants of amounts to be available to finance grants for new fixed guideway capital projects; (b) evaluations and ratings for each project; and (c) recommendations for funding based upon the evaluations and ratings and upon existing commitments and anticipated funding levels. In recommending annual funding allocations among proposed New Starts projects, the FTA assigns first priority for available funds to New Starts projects for which the FTA has existing FFGAs or for which the FTA has issued or proposes to issue a letter of intent to obligate funds from future available appropriations.

District's FFGAs. In its 2010 Annual Report of Funding Recommendations for the federal fiscal year ending September 30, 2011, the FTA recommended funding for eight existing full funding grant agreements, including the District's existing FFGA for the West Corridor light rail segment; four pending full funding grant

agreements; and six new agreements, including the District's requested agreements for the East Corridor and the Gold Line components of the Project, both of which were rated "Medium."

The District requested a total of $308.7 million of New Starts funding for the West Corridor segment and through federal fiscal year 2010, received appropriations of $268.5 million, including $40 million under the American Reinvestment and Recovery Act of 2009. The remaining $40.2 million was requested for federal fiscal year 2011. A total of approximately $850 million in New Starts funding was requested for the East Corridor and approximately $180 million was requested for the Gold Line. The District is working with the FTA to complete FFGAs for these two projects and hopes to enter into the FFGAs before December 31, 2011.

PAYMENTS UNDER THE CONCESSION AGREEMENT

General

Pursuant to the Concession Agreement, the District will make monthly Construction Payments to the Company during the Design Build Period for construction of the Project. Once revenue service for the Project commences, the District will make monthly Service Payments to the Company for operating and maintaining the Project. The Concession Agreement may be terminated as the result of the occurrence of a termination event as set forth in the Concession Agreement, in which case the Concession Agreement provides for the Company to be paid the Applicable Termination Amount. The Applicable Termination Amount to be paid to the Company will vary depending upon the specific termination event and circumstances that were the cause of the termination. Certain events that constitute Relief Events pursuant to the Concession Agreement will entitle the Company to receive compensation from the District related to certain incurred costs and if the occurrence of a Relief Event during the Design Build Period prevents the Company from achieving a Revenue Service Commencement Date, then the Revenue Service Commencement Date will be deemed to have occurred solely for the purposes of payment of the Service Payments on the date on which the Revenue Service Commencement Date would have occurred but for the Relief Event.

Construction Payments

Pursuant to the Concession Agreement, the District is obligated to make monthly Construction Payments to the Company during the Design Build Period, subject to certain annual and aggregate caps. The amount of each Construction Payment will equal the total Earned Value of Work as determined in accordance with schedules set forth in the Concession Agreement. The District must, no later than 30 days after the Company's delivery of an application for a Construction Payment together with all supporting materials, pay to the Company any undisputed amount claimed by the Company in its application, together with 50% of any disputed amount. Pursuant to the Concession Agreement, Construction Payments are RTD Appropriation Obligations and subject to annual appropriation by the District.

Construction Payments are expected to be received commencing in the first quarter of 2011. Pursuant to the Concession Agreement, the timing of the receipt of Construction Payments is based on an Earned Value amount, subject to a maximum annual Construction Payment schedule, each as set forth in the Concession Agreement. The amount of each Construction Payment will equal the total Earned Value of Work as determined in accordance with such schedules. The basic result of the Earned Value calculation is that the Company is entitled to Construction Payments totaling the funds spent under the Design Build Contract subject to the prescribed maximum annual Construction Payments. The Company anticipates receiving the maximum annual Construction Payment available during the Design Build Period. See "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

Service Payments

Overview. Commencing with the Revenue Service Commencement Date with respect to the East Corridor Service, the Company will be entitled to receive Service Payments on a monthly basis. The Service Payments will be the primary source of revenue to the Company during the operation of the Project. Pursuant to the Concession Agreement, the Service Payment obligation due will be based on operating performance and availability of the Project and will not be dependent on ridership levels or farebox collections.

Service Payments will have two components: the TABOR Portion, which has been structured to exceed scheduled debt service on the Series 2010 Bonds in each year of full operations, and the RTD Appropriation Obligation, which has been structured to cover operations and maintenance costs of the Project.

Calculation of Service Payments. Under the Concession Agreement, the Company is entitled to receive Service Payments on a monthly basis, commencing with the Revenue Service Commencement Date with respect to the East Corridor Service. The Service Payment is calculated based on a fixed base monthly amount for each of the

Commuter Rail Services, adjusted for the Availability Factor, Performance Deductions, and Special Events Adjustments. Pursuant to the Concession Agreement, the Service Payment can be reduced through the application of the Availability Factor and Performance Deductions, due to the operating performance of the Commuter Rail System. The Service Payment cannot, however, be reduced based upon solely upon ridership levels.

The Availability Factor will be determined by the Availability Ratio, which will reflect performance of the Commuter Rail and will depend on the actual car miles of Rolling Stock as compared to the scheduled car miles, station downtime hours as compared to the scheduled station downtime hours and the trains' on-time performance based on the total number and duration of deviations from the Operating Timetable. The Availability Factor, as calculated under the Concession Agreement, should not be less than 80%. An Availability Ratio of less than 80% (and 85% in six or more months of any eight-month period), however, in certain circumstances can result in a Concessionaire Termination Event.

The Availability Adjusted Base Annual Service Payment will be reduced by any applicable Performance Deductions pursuant to the Company's obligation to meet specified operating performance standards. The failure to meet these standards will entitle the District to levy performance deduction points against the Company, which are used to calculate the applicable Performance Deductions. The Performance Deduction Percentage, as calculated under the Concession Agreement, should not be greater than 5%. A Performance Deduction Percentage that exceeds 3% of the Adjusted Base Service Payment, in six or more months in any eight month period, can, however, result in a Concessionaire Termination Event. The application of both the 80% Availability Factor and the 5% Performance Deduction Ratio in the same period should not result in Service Payments being reduced by more than approximately 25% in that period.

The Concession Agreement provides that Service Payment deductions related to the Availability Factor and any Performance Deductions are first to be applied to the portion of the Service Payment that constitutes an RTD Appropriation Obligation before being applied to the TABOR Portion. Since the TABOR Portion, as currently structured, is not calculated to exceed 75% of the anticipated Service Payment in any one year, the payment of the scheduled TABOR Portion, as currently calculated, should not be affected by the application of the Availability Factor and Performance Deductions. However, the TABOR Portion could potentially be reduced to cover indemnity payments owed to the District by the Company.

The Service Payment may also be increased in any month by certain defined applicable Special Events Adjustments, which are increases based on special events generating extraordinary usage demand. See "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement—Termination of the Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT—Termination of the Concession Agreement."

Payment to O&M Contractor Subject to Reduction. The O&M Contract provides that the payment of the Monthly Operator's Fee thereunder is only payable to the extent that the Company receives the Service Payment (or portion thereof) from the District that corresponds to the Monthly Operator's Fee, and that the Service Payments are the only source of funds to pay the Monthly Operator's Fee. Consequently, reductions in the Service Payment due to the application of the Availability Factor and the Performance Deductions, as currently calculated, are passed through to the O&M Contract. Any dispute relating to the payment of an Monthly Operator's Fee, including disputes relating to the reduction of any Monthly Operator's Fee arising from the application of the Availability Factor or Performance Deductions, will be resolved pursuant to the dispute resolution procedures of the O&M Contract. If the Company and the O&M Contractor are unable to resolve any such dispute, and the Company has a right under the Concession Agreement to seek payment or other relief from the District with respect to such dispute, the O&M Contractor is entitled to bring in the Company's name a reasonably grounded claim against the District to resolve the dispute for its own benefit under the O&M Contract. Any resolution to a dispute that has been elevated to a claim against the District under the Concession Agreement will be binding on the Company and the O&M Contractor for all purposes of the O&M Contract.

TABOR Portion

Overview. The Concession Agreement provides that the TABOR Portion will be secured by a subordinate pledge of the RTD's Sales Tax Revenues as described below. The Concession Agreement provides that any

TABOR Portion payable pursuant to the terms of the Concession Agreement that is not paid due to insufficiency of RTD Sales Tax Revenues will also constitute an RTD Appropriation Obligation, payable from available funds of the District, but subject to annual appropriation by the District. Failure to pay the TABOR Portion, when due, shall constitute an RTD Termination Event under the Concession Agreement.

As described under "FINANCING FOR THE PROJECT—Phase 1 Only Financing Plan", in the event that the Phase 2 Notice to Proceed is not issued by the District, the District may request the Company to secure financing in an amount equal to the Phase 1 Excess Financing Amount. If the District makes such a request and the Company is able to finance the Phase 1 Excess Financing Amount, the Concessionaire is required to notify the District of any Additional TABOR Portion capacity required to achieve such financing. The District agrees that subject to verification by the District of the proposed terms of the Company's financing and the Company's closing the financing in accordance with those terms, the Concession Agreement shall be amended to reflect the required increase in the TABOR Portion. See "PRINCIPAL PROJECT AGREEMENTS—The Concession Agreement."

In the event of a termination of the Concession Agreement, the Company will be entitled to receive certain termination payments. Pursuant to the Concession Agreement, an "Additional TABOR Portion" may be pledged to satisfy the termination payments owed to the Company by the District. In accordance with the Concession Agreement, the Company may provide an Additional TABOR Portion Notice to the District setting forth a schedule of additional principal and interest payments to be made by the District out of available RTD Sales Tax Revenues and in accordance with the 2004 Election (as defined below), such payments to constitute the Additional TABOR Portion. Furthermore, the Company has covenanted in the Loan Agreement to provide the Additional TABOR Portion Notice to the District prior to the effective date of Amendment 61 to the State Constitution, which will be voted on in the November 2010 election, or any other legislation or constitutional amendment that may, in the reasonable judgment of the Trustee or the Company, adversely affect the District's ability or obligation to pay the Additional TABOR Portion. See APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT—PROPOSED COLORADO FISCAL INITIATIVES" and APPENDIX H—"SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT."

During the period from the Termination Date through the Expiry Date, any termination payments that have not been paid in full will continue to be secured by a pledge of the RTD Pledged Revenues and payable from the TABOR Portion and any Additional TABOR Portion, in accordance with the terms of the Concession Agreement (collectively defined as the "TABOR Portion"). Further, the Concession Agreement provides that any portion of an applicable termination payment that is not fully satisfied by payment of the TABOR Portion and any Additional TABOR Portion will constitute an RTD Appropriation Obligation.

TABOR Portion as Subordinate Lien Sales Tax Obligation. The term "TABOR Portion" derives from an amendment to Article X to the State Constitution passed in 1992 and referred to as the TABOR, or Taxpayer's Bill of Rights Amendment. TABOR requires voter approval for tax increases, debt, multiple-fiscal year financial obligations and increases in government spending that exceed inflation plus local growth, which, for a governmental entity such as the District is based on certain changes in the value of taxable property. The authority for the District to make the payment of the TABOR Portion and any Additional TABOR Portion in accordance with the Concession Agreement was authorized by a November 2, 2004 ballot referendum (the "2004 Election") pursuant to which voters in the District approved an increase in the District's sales tax rate from 0.6% (the "0.6% Sales Tax") to 1.0%, effective January 1, 2005, providing an additional 0.4% sales tax (the "0.4% Sales Tax"). The 2004 Election also allows the District to issue debt obligations in the aggregate principal amount of $3.477 billion (with a maximum total repayment cost of $7.129 billion, and a maximum annual repayment cost of $309.738 million and a maximum Net Effective Interest Rate of 7%) to fund the FasTracks Plan. For additional information, see "THE PROJECT—Overview of Denver FasTracks Plan" and APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT—RTD SALES TAX."

Payment of the TABOR Portion and any Additional TABOR Portion constitutes a Subordinate Lien Sales Tax Revenue Bond under the FasTracks Indenture and is a valid, binding, special, limited obligation of the District, payable from and secured by a subordinate lien on the RTD Sales Tax Revenues. Concurrently with the issuance of the Series 2010 Bonds, the District will deliver to the Company and the Trustee: (a) an approving opinion with respect to the validity and enforceability of those provisions of the Concession Agreement providing for the District's obligation to pay the TABOR Portion and any Additional TABOR Portion and (b) an opinion of the

General Counsel of the District as to the validity and enforceability of the Concession Agreement, other than the provisions described in clause (a) above.

Pursuant to the Concession Agreement, the District has pledged to the payment of the TABOR Portion and any Additional TABOR Portion: (a) all 0.4% Sales Tax Revenues available after payment of the FasTracks Bonds and any additional Senior RTD Debt; and (b) all 0.6% Sales Tax Revenues available after payment of the 0.6% Senior Debt and after any required payment of the FasTracks Bonds and any additional Senior RTD Debt.

Pursuant to the FasTracks Indenture, payment of the TABOR Portion and any Additional TABOR Portion will continue to be entitled to the lien on RTD Sales Tax Revenues described above even if no Senior RTD Debt remains outstanding.

Outstanding Indebtedness Secured by RTD Sales Tax Revenues. In 2006 and 2007, the District issued pursuant to respective bond indentures (collectively, the "FasTracks Indenture") its Sales Tax Revenue Bonds (FasTracks Project) in an aggregate amount of $600,000,000, of which $598,430,000 is currently outstanding (the "FasTracks Bonds"). The outstanding FasTracks Bonds, and any FasTracks Bonds subsequently issued by the District on a parity with the Outstanding FasTracks Bonds (the "Additional Parity FasTracks Bonds") are secured by a first lien on the 0.4% Sales Tax Revenues and a subordinate lien on the 0.6% Sales Tax Revenues.

Pursuant to a bond resolution, as amended and supplemented from time to time (the "0.6% Bond Resolution"), the District has previously issued several series of Sales Tax Revenue Bonds, of which $283,415,000 are currently outstanding (the "0.6% Senior Bonds"), which are secured by a first lien on the 0.6% Sales Tax Revenues. The District has also previously issued $92,500,0000 aggregate principal amount of its Subordinate Lien Sales Tax Revenue Commercial Paper Notes, Series 2001A (the "CP Notes" and, collectively with the 0.6% Senior Bonds, the "0.6% Senior Debt"), of which $22,000,000 are currently outstanding, and which have a lien on the 0.6% Sales Tax Revenues subordinate to the 0.6% Senior Bonds. The 0.6% Senior Debt is <u>not</u> secured by the 0.4% Sales Tax Revenues.

Additional Sales Tax Indebtedness Permitted Under the Concession Agreement. The District has covenanted under the FasTracks Indenture that no additional debt obligations will be issued with a pledge of and lien on the 0.6% Sales Tax Revenues or the 0.4% Sales Tax Revenues that is senior to the lien of the FasTracks Bonds, exclusive of: (a) obligations issued to refund 0.6% Senior Debt (so long as after issuance, the debt service payable on all 0.6% Senior Debt in each bond year does not exceed the debt service currently payable in each bond year on such 0.6% Senior Debt and (b) any "Senior Financial Products Agreements" and "Senior Credit Facility Obligations" (both as defined in the FasTracks Indenture) in connection with the 0.6% Senior Debt. Senior Financial Products Agreement means any interest rate swap, cap, collar, floor, other hedging agreement, arrangement or security entered respect to 0.6% Senior Debt pursuant to which periodic payments and/or the termination payments are payable from a lien on the 0.6% Sales Tax Revenues that is senior to the lien of the FasTracks Bonds. Senior Credit Facility Obligation means any letter or line of credit, bond insurance, surety bond or guarantee or similar instrument which specifically provides security and/or liquidity in respect of 0.6% Senior Debt and that is payable from RTD Sales Tax Revenues. The District has covenanted under the Concession Agreement that any such termination payments will have a lien on 0.6% Sales Tax Revenues that is subordinate to the lien of the TABOR Portion and the Additional TABOR Portion.

The Concession Agreement permits the District to issue additional indebtedness with a lien on RTD Sales Tax Revenues senior to that of the TABOR Portion and any Additional TABOR Portion ("Senior RTD Debt") only if the following requirement can be satisfied: that during 12 consecutive calendar months of the 18 calendar months prior to the issuance of the proposed Senior RTD Debt, RTD Sales Tax Revenues (including any estimated revenues which would have been received during said 12-month period from additional Sales Taxes imposed during this 18-month period) and certain investment proceeds will be at least equal to 150% of the combined Maximum Annual Debt Service Requirements (as defined in the Concession Agreement) for all currently outstanding Senior RTD Debt, the Senior RTD Debt which is proposed to be issued, and the TABOR Portion and any Additional TABOR Portion. The Concession Agreement sets forth the conditions and assumptions to be applied with respect to variable rate indebtedness, Financial Products Agreements and Commercial Paper Notes for purposes of computing the debt service coverage ratio requirement described above. See APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT." Notwithstanding the foregoing, the District may enter

into such Senior Credit Facility Obligations and Senior Financial Products Agreements relating to the Senior RTD Debt as the District determines to be in its best interest. However, pursuant to the Concession Agreement any termination payments with respect to Senior Financial Products Agreements must have a lien on the RTD Sales Tax Revenues that is subordinate to the lien of the TABOR Portion and the Additional TABOR Portion.

The Concession Agreement also provides that the District may issue additional Senior RTD Debt for the purpose of refunding outstanding Senior RTD Debt, without satisfying the conditions set forth above, provided that the debt service payable on all Senior RTD Debt outstanding after the issuance of such additional refunding Senior RTD Debt in each Bond Year does not exceed the debt service payable on all Senior RTD Debt outstanding prior to the issuance of such additional Senior RTD Debt in each Bond Year.

The District may not issue any indebtedness with a lien on the RTD Sales Tax Revenues which is on a parity with the lien of the TABOR Portion and any Additional TABOR Portion. However, the District may issue at any time such Subordinate Lien Bonds and enter into such Subordinate Financial Products Agreements and Subordinate Credit Facility Obligations, all of which have a lien on the RTD Sales Tax Revenues which is subordinate to the lien of the TABOR Portion and any Additional TABOR Portion, as the District determines to be in its best interest.

The District has issued its Subordinate Lien Sales Tax Revenue Bond, Series 2010 Bonds (the "DUSPA Bond"), pursuant to a funding agreement between the District and the Denver Union Station Project Authority to finance a portion of the cost of the Denver Union Station Project (which is a part of the District's FasTracks Plan). For additional information about the Denver Union Station Project and the DUSPA Bond, see APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT—FasTracks." The DUSPA Bond has a lien on the RTD Sales Tax Revenues that is subordinate to the lien of both the FasTracks Bonds and the TABOR Portion and any Additional TABOR Portion.

Payment of the TABOR Portion. The District has assigned its rights to receive payment of the RTD Sales Tax Revenues to The Bank of New York Mellon Trust Company, N.A., (the "Senior RTD Debt Trustee") as trustee for the benefit, respectively, of the owners of both the 0.6% Senior Debt and the FasTracks Bonds. The funds, accounts and mechanics required for paying debt service on the 0.6% Senior Debt and the FasTracks Bonds are set forth in the 0.6% Bond Resolution and the FasTracks Indenture. Each month, after making in full all deposits or payments required with respect to the 0.6% Senior Debt, the Senior RTD Debt Trustee is required to remit any remaining 0.6% Sales Tax Revenues to fund any requirements secured, but not otherwise funded, by the 0.4% Sales Tax Revenues. All 0.4% Sales Tax Revenues will be applied: first, to the FasTracks Bonds and any Additional Parity FasTracks Bonds; second, to the TABOR Portion and any Additional TABOR Portion; and third, to any indebtedness debt secured by the RTD Sales Tax Revenues with a lien that is subordinate to the TABOR Portion and any Additional TABOR Portion.

Pursuant to the FasTracks Indenture, the District may provide written instructions to the Senior RTD Debt Trustee regarding the use of the RTD Sales Tax Revenues remaining on deposit after the required payments under the FasTracks Indenture as described above have been satisfied. Accordingly, pursuant to the Concession Agreement, the District will, at or prior to the Closing Date, provide written instructions to the Senior RTD Debt Trustee (the "TABOR Payment Instructions"), setting forth the priority and mechanics for payments of the TABOR Portion and any Additional TABOR Portion from the RTD Sales Tax Revenues, which instructions may not be materially amended by the District without prior written consent from the Company.

Pursuant to the TABOR Payment Instructions, the Senior RTD Debt Trustee also serves as the District's disbursement agent (the "Disbursement Agent") with respect to the required payments of the TABOR Portion and any Additional TABOR Portion under the Concession Agreement. A segregated account held by the Senior RTD Debt Trustee and designated as the "District Eagle-P3 Payment Account" (the "Eagle-P3 Account") will be created pursuant to the TABOR Payment Instructions. Pursuant to the terms of the Concession Agreement and the TABOR Payment Instructions, commencing with the Revenue Service Commencement Date with respect to the East Corridor Service, the Senior RTD Debt Trustee is required to credit to the Eagle-P3 Account, from available moneys on deposit in the Sales Tax Increase (0.4%) Fund and, to the extent necessary, the Sales Tax (0.6%) Fund (collectively, the "Sales Tax Funds"), after all credits or payments under the FasTracks Indenture have been made, and after all payments or transfers required in connection with the issuance or incurrence of additional Senior RTD

Debt have been made, an amount equal to the amount of the TABOR Portion and any Additional TABOR Portion due on the fifth business day of each month. Such amounts will be credited to the Eagle-P3 Account prior to the Senior RTD Debt Trustee making payments from remaining amounts on deposit in the Sales Tax Funds for the payment of any other debt obligations of the District. See the chart titled "Application of the RTD Sales Tax Revenues" below.

In the event that in any particular month there are not sufficient remaining revenues on deposit in the Sales Tax Funds to make the required deposit to the Eagle-P3 Account, then the Disbursement Agent will make up any shortfall in the following month or months to the extent of revenues available in the Sales Tax Funds.

On or prior to each payment date, the Disbursement Agent, without further direction from the District or the Company, will remit to the Company the total amount of the TABOR Portion due on that date to the extent amounts on deposit in the Eagle-P3 Account are sufficient. Such remittance from the Disbursement Agent will be made solely from amounts on deposit in the Eagle-P3 Account (or as otherwise directed in writing by the District to the Disbursement Agent). In the event that three Business Days prior to any payment date, there are not sufficient moneys on deposit in the Eagle-P3 Account to pay the TABOR Portion and any Additional TABOR Portion on the payment date, the Disbursement Agent will immediately notify the District in writing of the insufficiency.

Moneys on deposit in the Eagle-P3 Account will be used solely to pay the TABOR Portion. The Eagle-P3 Account will not be subject to the lien of the FasTracks Indenture and moneys on deposit in the Eagle-P3 Account can not be used to pay any Senior RTD Debt, the DUSPA Bond or any other District subordinate indebtedness.

Pursuant to the Concession Agreement, the District may not materially amend the TABOR Payment Instructions without the consent of the Company.

Pursuant to the Security Agreement, the Company has pledged and granted all of its rights, title and interest in, to and under the Concession Agreement, including the right to receive Service Payments, to the Trustee for the benefit of the Owners of the Bonds. Payments to the Company of the TABOR Portion and any Additional TABOR Portion will be made directly to the Account Bank for application pursuant to the Lockbox Agreement See "ACCOUNTS AND FLOW OF FUNDS."

Potential Acceleration of the 0.6% Senior Bonds; Trustee Also Serving as the District Senior Debt Trustee. In the event the 0.6% Sales Tax Revenues are insufficient to pay principal of or interest on the 0.6% Senior Bonds, or upon the happening and continuance of any other event of default under the 0.6% Bond Resolution, the Senior RTD Debt Trustee, or the holders of not less than 25% in principal amount of the 0.6% Senior Bonds then outstanding under the 0.6% Bond Resolution, may declare the principal and accrued interest on such Bonds immediately due and payable. If such declaration occurs, until all principal and interest on the 0.6% Senior Bonds was paid in full, none of the 0.6% Sales Tax Revenues would be available as a source of Sales Tax Revenue to pay any of the TABOR Portion.

As described above, the District has pledged to the payment of the TABOR Portion: (a) all 0.4% Sales Tax Revenues available after payment of the FasTracks Bonds and any additional senior debt issued pursuant to the FasTracks Indenture; and (b) all 0.6% Sales Tax Revenues available after payment of the 0.6% Senior Debt and after any required payment of the FasTracks Bonds and any additional senior debt issued pursuant either to the 0.6% Bond Resolution or the FasTracks Indenture. Therefore, a decision by the Senior RTD Debt Trustee to declare the principal and accrued interest on the 0.6% Senior Bonds immediately due and payable may, under certain circumstances, be viewed as an action that benefits the owners of 0.6% Senior Bonds to the detriment of the Owners of the Series 2010 Bonds.

The Bank of New York Mellon Trust Company, N.A., is serving as both the Trustee for the Series 2010 Bonds and the Senior RTD Debt Trustee for the 0.6% Bonds and the FasTracks Bonds. As a result, there may be potential for conflict associated with any decision to declare the principal and accrued interest on the 0.6% Senior Bonds immediately due and payable in these circumstances.

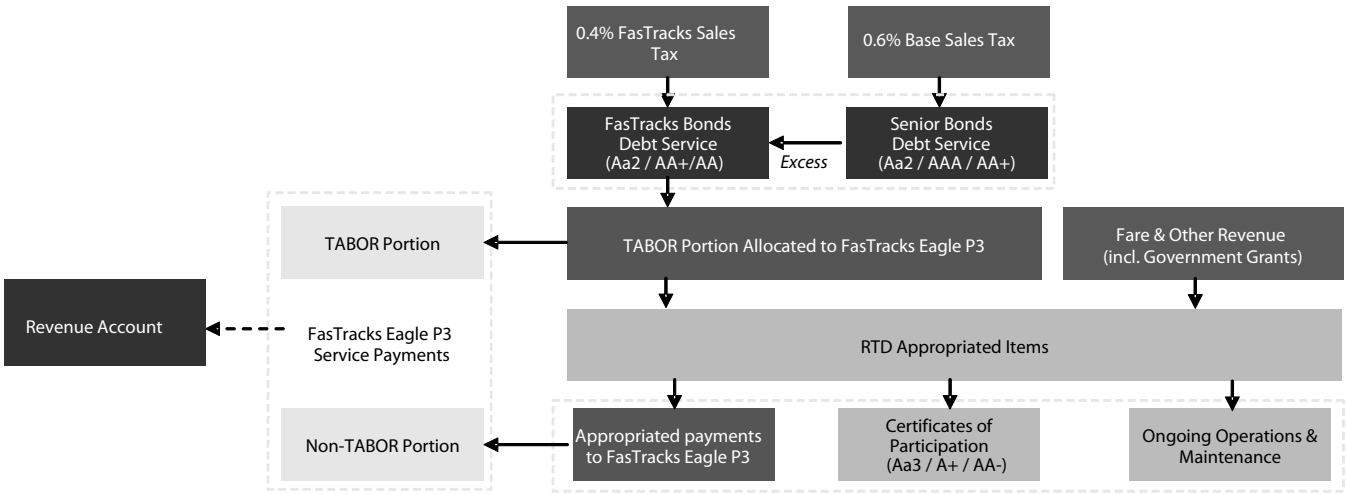
RTD Appropriation Obligations

All Construction Payments and all Service Payments, other than the TABOR Portion and any Additional TABOR Portion, required to be paid by the District under the Concession Agreement constitute RTD Appropriation Obligations. Moreover, the Concession Agreement provides that any amount of the TABOR Portion and any Additional TABOR Portion that is not paid from Sales Taxes and remains unpaid under the Concession Agreement, shall also constitute an RTD Appropriation Obligation (without double-counting as to amounts payable by District under the Concession Agreement). The RTD Appropriation Obligations are subject to the Board of the District expressly approving annual appropriations of moneys to satisfy such Obligations. No RTD Appropriation Obligation which requires funding in any Fiscal Year is legally enforceable against the District without an appropriation for the relevant amount of funding in such Fiscal Year.

The District has agreed in the Concession Agreement as follows with respect to the RTD Appropriation Obligations (a) to provide a copy of the budget for the following Fiscal Year to the Company no later than five Business Days after such submission; (b) to provide a notice to the Company of all budget allocations and appropriations made by the District in respect of any and all RTD Appropriation Obligations for such Fiscal Year; (c) that the RTD Appropriation Obligations which require funding and are payable or expected to be payable during the following Fiscal Year will be included in the District's annual budget for consideration for appropriation; (d) that any and all such RTD Appropriation Obligations will be given priority (to the extent permitted by Law and subject to the District's other contractual obligations) within the District's annual budget for consideration for appropriation; (e) the District will use best efforts to ensure the availability of funds to meet such RTD Appropriation Obligations; and (f) to use best efforts to allocate funds available to it and to raise debt or other financing in accordance with Law to fund any RTD Appropriation Obligations arising upon termination of the Concession Agreement. All information to be provided to the Company as described in this paragraph will also be provided to the Account Bank pursuant to the Lockbox Account Agreement. See "ACCOUNTS AND FLOW OF FUNDS."

The following chart reflects the application of RTD Sales Tax Revenues and other available funds of the District to pay both the TABOR Portion and the RTD Appropriation Obligation components of the Service Payments.

RTD Sales Tax Revenues Conceptual Flow of Funds



Comparison of RTD Sales Tax Revenues to TABOR Portion

As provided in APPENDIX A—"REGIONAL TRANSPORTATION DISTRICT—RTD SALES TAX," RTD Sales Tax Revenues for 2009 were $371.4 million. Based on the scheduled debt service payable on currently outstanding 0.6% Senior Bonds and 0.4% FasTracks Bonds and the schedule of the annual TABOR Portion payable to the Company incorporated in the Concession Agreement, current RTD Sales Tax Revenues can be compared to the annual Debt Service Requirements for currently outstanding 0.6% Senior Bonds, currently outstanding 0.4% FasTracks Bonds and the TABOR Portion to be paid in each year during the term of the Concession Agreement. The Maximum Annual Debt Service Requirement is approximately $172.5 million, scheduled to be paid in 2035 for the then-outstanding 0.4% FasTracks Bonds and the TABOR Portion. (Final maturity of the 0.6% Senior Bonds is currently scheduled to occur in 2024.) The District is permitted under the Concession Agreement to issue additional indebtedness with a lien on RTD Sales Tax Revenues senior to that of the TABOR Portion, subject, however, to compliance with the "additional bonds test" described above under "—TABOR Portion—Additional Sales Tax Indebtedness Permitted Under the Concession Agreement."

Payment of Termination Amounts

Termination of Concession Agreement. The Concession Agreement may be terminated as the result of any one of the termination events described below. Pursuant to the Concession Agreement, the Company will be paid the Applicable Termination Amount upon the occurrence of any of these termination events but the amount of the Applicable Termination Amount paid to the Company will vary depending upon the specific termination event. Applicable Termination Amounts will be calculated as described below. For purpose of any calculation of any Applicable Termination Amount, "Lenders' Liabilities" includes all unpaid principal of the Bonds and all interest accrued on the Bonds until the Termination Date, as well as other amounts owed by the Company to lenders and financial institutions and certain other payments. For additional information regarding termination events under the Concession Agreement and the calculation of Applicable Termination Amounts, see "PRINCIPAL PROJECT AGREEMENTS—Concession Agreement" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

Concessionaire Termination Event during the Design Build Period. If the Concession Agreement is terminated due to a Concessionaire Termination Event during the Design Build Period, the Applicable Termination Amount to be paid to the Company will equal the following, but in no event to exceed the aggregate amount of Lenders' Liabilities: (a) all Project Implementation Costs incurred by the Company (but excluding any prepayment costs or make whole amounts or breakage costs) minus: (b) the sum of the following: (i) any funds held in bank accounts by or on behalf of the Company that have not been applied to the costs of performing the Company's obligations; (ii) Construction Payments made by the District; (iii) Projected Rectification Costs (as determined by an independent third party expert appointed jointly by the Parties); and (iv) reasonable and verifiable costs incurred by the District: (A) with respect to the third party expert determination referenced above; and (B) in replacing the Company with a suitable substitute contractor (including the costs incurred in carrying out any re-letting process).

Concessionaire Termination Event after the Design Build Period. If the Concession Agreement is terminated due to a Concessionaire Termination Event after the Design Build Period, the Applicable Termination Amount to be paid to the Company will be the greater of: (a) an amount not to exceed the aggregate amount of Lenders' Liabilities that is equal to: (i) all Project Implementation Costs incurred by the Company until the Termination Date (but excluding any prepayment costs and fees or make whole amounts or breakage costs) minus (ii) accrued amortization of Project Implementation Costs; and (b) 80% of Lenders' Liabilities; provided that the following amounts will be deducted from the amounts calculated pursuant to both (a) and (b) above: (X) Projected Rectification Costs as determined by an independent third party expert appointed jointly by the Parties; and (Y) the reasonable and verifiable costs incurred by the District (A) with respect to the expert determination referenced above, and (B) in replacing the Company with a suitable substitute contractor (including the costs incurred in carrying out any re-letting process).

RTD Termination Event or upon Failure to Deliver the Full Phase 1 Notice to Proceed. If the Concession Agreement is terminated due to an RTD Termination Event, or upon failure by the District to deliver the Full Phase 1 Notice to Proceed by December 31, 2011, or in the case the District elects to terminate the Concession Agreement if the Company has given a notice that the Company has exhausted the amounts the Company is allowed

to spend on Work in the absence of the Full Phase 1 Notice to Proceed, the amount payable by the District as Termination Compensation shall equal the aggregate, calculated at the Termination Date (and re-calculated on each anniversary of the Termination Date until payment of the Applicable Termination Amount in full, in accordance with the provisions of the Concession Agreement) of the sum of the following: (a) the aggregate amount of Lenders' Liabilities; (b) Equity Market Value (less costs expended for an independent third party expert appraisal of such Equity Market Value); (c) any subcontractor breakage costs; and (d) reasonable and verifiable costs of enforcement, protection or preservation of security incurred by the Trustee or the Owners of the Bonds from the Termination Date to the date of payment.

Extensive Force Majeure Event. If the Concession Agreement is terminated due to an Extensive Force Majeure Event, the Applicable Termination Amount to be paid to the Company will equal the aggregate, calculated at the Termination Date (and re-calculated on each anniversary of the Termination Date until payment of the Applicable Termination Amount in full, in accordance with the provisions of the Concession Agreement) of the sum of the following: (a) the aggregate amount of Lenders' Liabilities; (b) all amounts paid by the Shareholders of the Company (or Affiliates) for Project Implementation Costs in the form of capital contributions to the Company or as Subordinated Debt up until the Termination Date), less any amounts received by the Shareholders (or Affiliates) as Distributions (or any such amounts that were permitted under Designated Credit Agreements to be paid to Shareholders but were not so paid as at the Termination Date); (c) any subcontractor breakage costs; and (d) reasonable and verifiable costs and expenses of enforcement, protection or preservation of security properly incurred by the Trustee or the Owners of the Bonds from the Termination Date to the date of payment by the District.

Relief Events

Design Build Period. The Company will be entitled to schedule relief and compensation for certain costs incurred as a result of a Relief Event. During the Design Build Period, where the carrying out of the Work has been delayed as a result of the occurrence of a Relief Event, the dates for any Revenue Service Target Date, the Revenue Service Deadline Date and/or the Final Completion Deadline Date shall be extended to reflect the impact of the Relief Event on the critical path of the Work. If the occurrence of a Relief Event or Relief Events during the Design Build Period prevents the Company from achieving the Revenue Service Commencement Date in respect of a Commuter Rail Service, then the Revenue Service Commencement Date for such Commuter Rail Service shall be deemed to have occurred for the purposes of the payment of the Service Payment, but for no other purposes, on the date on which the Revenue Service Commencement Date would have occurred but for the Relief Event.

Operating Period. During the Operating Period, the Company shall not suffer any impact to the Availability Ratio or accrue any Performance Deductions as a result of the Relief Event where the events giving rise to the Relief Event would, absent a Relief Event, have caused such impact to the Availability Ratio to arise or such Performance Deductions to accrue. During either the Design Build Period or the Operating Period, the Company shall be entitled to claim, and be paid by the District, the Incurred Costs actually incurred by it as a result of the delay and/or disruption to the Company's performance of the Concession Agreement, and any additional work it is required to carry out as a result of the applicable Relief Events. There is a separate relief mechanism for relief in connection with a Change or Work Order.

Adjustments to Service Payments. Following the occurrence of any Relief Event that results in the Company incurring additional capital expenditure or funding, an adjustment to the Service Payment for such Commuter Rail Service will be made in order to restore the respective economic position of the Parties as set out in the Financial Model immediately prior to such occurrence or payment, as the case may be, and, in the case of a Change, to ensure that the Company suffers no reduction in revenue or net income as a result of carrying out such Change. Any Incurred Costs payable by the District shall be paid by the District by direct lump sum payment or by an adjustment to the Service Payments as soon as possible following the occurrence of the Relief Event; provided that the amount and timing of such adjustment shall be determined by reference to the Financial Model so as to maintain required debt service coverage ratios.

SECURITY FOR THE BONDS

Indenture

General

The Issuer and Trustee will enter into the Indenture pursuant to which the Bonds will be issued. For more information relating to the terms of the Indenture, see APPENDIX G—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE."

Trust Estate

The Issuer, in order to secure the payment of the Bonds, has pledged and assigned, or has required to be pledged and assigned, to the Trustee pursuant to the terms of the Indenture and the Loan Agreement subject to the Security Documents, for the benefit of the Owners, all of the following (collectively, the "Trust Estate"):

(a) all right, title and interest of the Issuer (except for Reserved Rights) in and to the Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed), the present and continuing right of the Issuer to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed), to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer is entitled to do under such Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed);

(b) all moneys from time to time held by the Trustee under the Indenture in any fund or account other than (i) the Rebate Fund and (ii) any Defeasance Escrow Account;

(c) any Security Interest created for the benefit of the Trustee on behalf of the Owners of the Bonds under the Security Documents or otherwise, including without limitation the Project Collateral pledged thereunder, and the present and continuing right of the Trustee to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits, and any other sums of money payable or receivable under the Security Documents, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things that the Trustee is entitled to do under such Security Documents; and

(d) any and all other property, revenues, rights or funds from time to time hereafter by delivery or by writing of any kind specially granted, assigned or pledged as and for additional security for any of the Series 2010 Bonds, any series of Additional Parity Bonds (if issued), the Loan Agreement or any Additional Parity Bonds Issuer Loan Agreement (if executed) in favor of the Trustee, including any of the foregoing granted, assigned or pledged by the Company or any other person on behalf of the Company, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture.

Funds and Accounts to be Established under the Indenture

Various funds and accounts will be created under the Indenture in connection with the financing of the Project, including for the payment of principal of and interest on the Bonds when due. Such funds and accounts include a Debt Service Reserve Account, the Debt Service Fund and the Rebate Fund described below. For a detailed description of the additional accounts created under the Indenture, see "ACCOUNTS AND FLOW OF FUNDS—Accounts Under the Indenture."

Debt Service Reserve Account. The Indenture will create a Debt Service Reserve Account that will be funded on the Closing Date from proceeds of the Series 2010 Bonds in an amount at least sufficient to satisfy the Debt Service Reserve Requirement. After the first Revenue Service Commencement Date to occur with respect to the Project, to the extent available, funds will be deposited from the Revenue Account into the Debt Service Reserve Account to fund any shortfall in accordance with seventh of "ACCOUNTS AND FLOW OF FUNDS—Flow of Funds—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project" herein.

Amounts in the Debt Service Reserve Account will be transferred to the Interest Account of the Debt Service Fund, or any applicable sub-account thereof, solely to pay the interest on the Bonds and to the Principal Account of the Debt Service Fund, or any applicable sub-account thereof solely to pay principal of the Bonds in the event there are insufficient funds available in such accounts of the Debt Service Fund when such payments are due.

After the first Revenue Service Commencement Date to occur with respect to the Project, to the extent on any date of determination, amounts on deposit in the Debt Service Reserve Account are in excess of the Debt Service Reserve Requirement, such excess amounts will be transferred by the Trustee to the Revenue Account established pursuant to the Lockbox Account Agreement upon the written direction of the Company to the Trustee.

Debt Service Fund. The Indenture will create with the Trustee the Debt Service Fund, with an Interest Account, a Principal Account and Redemption Account. Moneys will be transferred to the Debt Service Fund pursuant to the Indenture and the Lockbox Account Agreement, including any lump sum termination payments received by the Company from the District as set forth in the Lockbox Account Agreement. Moneys on deposit in the Debt Service Fund will be used solely for the payment (within each account) of the principal of and interest on and the Redemption Price of the Bonds; provided, that (a) moneys paid by the Issuer pursuant to the Indenture with respect to redemption of the Bonds will be used to pay the Redemption Price of the Bonds and (b) moneys held in such account of the Debt Service Fund following an acceleration of the Bonds upon an Event of Default will be used as provided in "SECURITY FOR THE BONDS—Indenture—Use of Moneys Received from Exercise of Remedies" below.

To the extent that, on any applicable Debt Service Payment Date, there are insufficient funds on deposit in the Debt Service Fund to make the required payments of principal and interest on the Bonds, then the Trustee shall transfer moneys between the Interest Account and the Principal Account with the following order of priority, first, to the Interest Account until such account is sufficiently funded and second, to the Principal Account.

Rebate Fund. The Rebate Fund will be created under the Indenture for the sole benefit of the United States of America and will not be subject to the claim of any other Person, including without limitation, the Owners. The Rebate Fund is established for the purpose of complying with section 148 of the Code and the Treasury Regulations promulgated pursuant thereto. There will be deposited to the Rebate Fund all amounts transferred pursuant to the Lockbox Account Agreement. The money deposited in the Rebate Fund, together with all investments thereof and investment income therefrom, will be held in trust and applied solely as provided in the Indenture. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under the Indenture.

Investment of Moneys. All moneys held as part of any fund or account established under the Indenture will be deposited or invested and reinvested by the Trustee, at the written direction of the Company, in Permitted Investments; *provided*, however, that moneys in the Debt Service Fund will be invested solely in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof; and *provided further*, however, that moneys in any Defeasance Escrow Account may only be invested in Defeasance Securities. Moneys held in an account of the Trustee are subject to certain investment limitations and amounts on deposit in the Lockbox Project Accounts held by the Account Bank may be invested in a broader set of investment options. See "FINANCING FOR THE PROJECT—Interest Earnings."

Monthly Reports to Account Bank. To facilitate the administration of the funds and accounts under the Indenture and the related transfers between such funds and accounts and the accounts established and created pursuant to the Lockbox Account Agreement, the Trustee will agree to provide a monthly report to the Account Bank four Business Days prior to each Transfer Date setting forth, among other things, the balance for each fund and account, including any sub-accounts, established and created pursuant to the Indenture.

Additional Parity Bonds

Subject to the restrictions set forth below and upon request by the Company, the Issuer may issue Additional Phase 1 Parity Bonds or Other Permitted Parity Bonds (collectively, the "Additional Parity Bonds"), which shall be ratably and equally secured by the Trust Estate, upon execution of a Supplemental Indenture without

consent of the Owners of the Bonds. Except to the extent inconsistent with the express terms of the Additional Parity Bonds issued and the related Supplemental Indenture executed pursuant to the Indenture, all of the provisions, terms, covenants and conditions of the Indenture will apply to any Additional Parity Bonds.

Additional Phase 1 Parity Bonds. The Issuer may issue Additional Phase 1 Parity Bonds pursuant to the Indenture, solely in the event that the Phase 2 Notice to Proceed has not been given by the District to the Company on or by December 31, 2011. Such Additional Phase 1 Parity Bonds may be issued solely if the following conditions are met:

(a) Additional Phase 1 Parity Bonds may be issued up to an aggregate principal amount of $500,000,000 and must be issued on or by June 30, 2012;

(b) Additional Phase 1 Parity Bonds must be issued on the same terms and conditions applicable to then Outstanding Bonds (unless otherwise approved by the Issuer and the Company), except that the interest and amortization applicable to any such Additional Phase 1 Parity Bonds would be subject to then-current market conditions and on terms acceptable to the Company;

(c) To the extent that any or all of the Series 2010 Bonds are Outstanding at the time the Additional Phase 1 Parity Bonds are proposed to be incurred, the additional financing documents entered into in connection therewith (i) must not prohibit the Company from incurring new indebtedness to refinance such Series 2010 Bonds and (ii) must provide that all principal and interest payment dates with respect to such Additional Phase 1 Parity Bonds will be the same dates as for the Bonds occurring on or before the maturity date of the Series 2010 Bonds; and

(d) Prior to the issuance of any Additional Phase 1 Parity Bonds, the Company must deliver to the Trustee the following:

(i) A certificate of the Company dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds stating that no Potential Event of Default or Event of Default has occurred and is continuing or will result from the issuance of such Additional Phase 1 Parity Bonds;

(ii) Executed counterparts of all financing documents related to the Additional Phase 1 Parity Bonds including, without limitation, (i) a certified copy of the executed counterpart of the Additional Parity Bonds Issuer Loan Agreement, under which the Issuer agrees to loan the proceeds of the Additional Phase 1 Parity Bonds to the Company, and (ii) an original executed counterpart of the Supplemental Indenture under which the Additional Phase 1 Parity Bonds have been issued;

(iii) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds certifying that (A) the Indebtedness under the Additional Phase 1 Parity Bonds will not result in a projected Total Debt Service Coverage Ratio as of each Calculation Date after December 31, 2016 of less than 1.35:1.00 and (B) on the date of issuance of such Additional Phase 1 Parity Bonds, the projected Loan Life Coverage Ratio as of the next succeeding Calculation Date after giving affect to the issuance of the Additional Phase 1 Parity Bonds is equal to or greater than 1.50:1.00;

(iv) Evidence that upon the date of issuance of such Additional Phase 1 Parity Bonds the then current ratings on any Outstanding Bonds issued pursuant to the Indenture will not be lowered on the date of such issuance as a result of the issuance of such Additional Phase 1 Parity Bonds; and

(v) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds certifying that in every Fiscal Year after December 31, 2016 until the maturity date thereof, the ratio of the TABOR Portion to the annual debt service payable on all Bonds after the issuance of such Additional Phase 1 Parity Bonds will be at least 1.00:1.00.

Other Permitted Parity Bonds. The Issuer may issue Other Permitted Parity Bonds in accordance with the Indenture, the proceeds of which will be used (a) in connection with the Project, including to fund the obligations of

the Company under Section 38.9 or Section 36.4 of the Concession Agreement or (b) to refinance or refund all or any portion of the Bonds then Outstanding. Such Other Permitted Parity Bonds may be issued solely if prior to the issuance of any such Other Permitted Parity Bonds, the Company delivers to the Trustee the following:

(a) A certificate of the Company dated as of the date of issuance of such proposed Other Permitted Parity Bonds stating that no Potential Event of Default or Event of Default has occurred and is continuing or will result from the issuance of such Other Permitted Parity Bonds;

(b) Executed counterparts of all financing documents related to the Other Permitted Parity Bonds including, without limitation, (i) a certified copy of the executed counterpart of the Additional Parity Bonds Issuer Loan Agreement, under which the Issuer agrees to loan the proceeds of the Other Permitted Parity Bonds to the Company, and (ii) an original executed counterpart of the Supplemental Indenture under which the Other Permitted Parity Bonds have been issued;

(c) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Other Permitted Parity Bonds certifying that (A) (i) for Other Permitted Parity Bonds issued prior to the one year anniversary of the Last Revenue Service Commencement Date, the Indebtedness under the Other Permitted Parity Bonds will not result in a projected Total Debt Service Coverage Ratio as of each Calculation Date after December 31, 2016 of less than 1.35:1.00 or (ii) for Other Permitted Parity Bonds issued on or after the one year anniversary of the Last Revenue Service Commencement Date, the Indebtedness under the Other Permitted Parity Bonds will not result in a Minimum Projected Debt Service Coverage Ratio after December 31, 2016 of less than 1.35:1.00 and (B) on the date of issuance of such Other Permitted Parity Bonds, the projected Loan Life Coverage Ratio as of the next succeeding Calculation Date after giving affect to the issuance of the Other Permitted Parity Bonds is equal to or greater of 1.50:1.00;

(d) Evidence that upon the date of issuance of such Other Permitted Parity Bonds the then current ratings on any Outstanding Bonds issued pursuant to the Indenture will not be lowered on the date of such issuance as a result of the issuance of such Other Permitted Parity Bonds; and

(e) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Other Permitted Parity Bonds certifying that in every Fiscal Year after December 31, 2016 until the maturity date thereof, the ratio of the TABOR Portion to the annual debt service payable on all Bonds after the issuance of such Other Permitted Parity Bonds will be at least 1.00:1.00.

Notwithstanding anything in the Indenture to the contrary, in the case of Other Permitted Parity Bonds issued for the purpose of refinancing or refunding any portion of the Bonds then Outstanding, compliance with the above requirements are not required (unless otherwise required by the provisions of any applicable resolution or supplemental indenture authorizing the issuance of such Additional Parity Bonds) so long as the debt service payable on all Bonds Outstanding after the issuance of such Other Permitted Parity Bonds in each Bond Year does not exceed the debt service payable on all Bonds Outstanding prior to the issuance of such Other Permitted Parity Bonds in each Bond Year.

Events of Default under the Indenture

Any of the following shall constitute an "Event of Default" under the Indenture with respect to all of the Outstanding Bonds:

(a) Default in the payment of any portion of the principal of any Outstanding Bond when due and payable;

(b) Default in the payment of any portion of interest on any Outstanding Bond when due and payable;

(c) Failure by the Issuer to cure any noncompliance with any other provision of this Indenture within 60 days after receiving written notice (with a copy to the Company) of such noncompliance from the Trustee with respect to the Bonds;

(d) A Loan Agreement Default shall have occurred and be continuing; or

(e) The occurrence and continuance, with respect to the Issuer, of a Bankruptcy Event (provided that solely for purposes of this clause, all references to the "Company" within the definition of the term "Bankruptcy Event" shall be substituted with the "Issuer").

Remedies Following and During the Continuance of an Event of Default

Upon the occurrence and during the continuance of an Event of Default under the Indenture, any Owner or the Issuer may deliver to the Trustee a written notice, with a copy to the Issuer and the Company that an Event of Default has occurred and is continuing. The Trustee will not be deemed to have any knowledge of the occurrence of an Event of Default, except with respect to an event of default as described in clause (a) or (b) in subsection "Indenture—Events of Default under the Indenture" above, unless and until it has received such a notice from the relevant party.

At any time during which an Event of Default under the Indenture has occurred and is continuing, commencing on the date of delivery to the Trustee of the notice described above (except with respect to an "event of default" described in (a) or (b) above, which does not require notice), the Owners of not less than 25% in Bond Obligations shall have the right to give the Trustee one or more enforcement directions directing the Trustee to take on behalf of the Owners of the Bonds whatever action at law or in equity may appear necessary or desirable to enforce the rights of the Owners of the Bonds.

Upon the occurrence and during the continuance of an Event of Default, if so instructed by the Owners of not less than 25% in Bond Obligations, the Trustee will declare all Outstanding Bonds, all interest accrued and unpaid thereon, and all other amounts payable in respect of the Bonds to be due and payable; provided that the Outstanding Bonds may be accelerated pursuant to the indenture only to the extent the underlying loan under the Loan Agreement has been accelerated.

The Owners of a majority in aggregate principal amount of the Bond Obligations may, by written notice to the Trustee, on behalf of all of the Owners, rescind any acceleration and its consequences, if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived and the Issuer has paid or deposited, or caused to be paid or deposited, with the Trustee a sum sufficient to pay all sums paid or advanced by the Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Use of Moneys Received from Exercise of Remedies

After an acceleration of the Bonds pursuant to the Indenture and the Loan Agreement, moneys received by the Trustee under the Indenture and the other Security Documents pursuant to an exercise of remedies will be applied first to pay the reasonable and proper fees and expenses of the Trustee incurred in connection with the exercise of remedies following such Event of Default under the Indenture, and thereafter remaining amounts will be applied as follows:

> First, ratably, to the payment of fees, rating agency costs, administrative costs, expenses and indemnification payments due to the Trustee under the Financing Documents and to the payments then due and payable by the Company to the Rebate Fund; Second, ratably, to all accrued and unpaid interest on the Bonds; Third, ratably, to the outstanding principal amount on the Bonds and the Promissory Notes; Fourth, to all accrued and unpaid interest on any Permitted Subordinated Debt; Fifth, to the outstanding principal amount on any Permitted Subordinated Debt; and Sixth, to the Company, upon termination, expiration or payment in full of all commitments, any surplus to be applied at the Company's discretion.

For more detailed information relating to the terms of the Indenture in general, including provisions relating to covenants, defaults and terminations, see APPENDIX G—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE."

Loan Agreement

Generally. The Company and the Issuer will enter into a loan agreement (the "Loan Agreement"), pursuant to which the proceeds of the Series 2010 Bonds will be loaned to the Company on the date of issuance of the Series 2010 Bonds (the "Loan"), subject to the terms and conditions of the Loan Agreement. The net proceeds received from the sale of the Series 2010 Bonds will be deposited directly into the Series 2010 Bonds Sub-Account of the Indenture Construction Account and other accounts held by the Trustee under the Indenture as required by the Indenture and agreed to by the Company. The Company will use the proceeds of the Loan to finance (a) to pay a portion of the Project Costs, (b) to pay a portion of the Cost of Issuance for the Series 2010 Bonds, (c) to pay a portion of the interest coming due on the Series 2010 Bonds during the Design Build Period, (d) to fund the Debt Service Reserve Account for the Series 2010 Bonds and (e) to fund the Indenture Change In Law Contingency Account to be used by the Company to cover certain Incurred Costs related to a Change In Law pursuant to the Concession Agreement. In order to secure the repayment of the Series 2010 Bonds, all of the Issuer's right, title and interest in and to the Loan Agreement (except for Reserved Rights) will be assigned to, and are subject to a security interest in favor of, the Trustee pursuant to the Indenture.

Compliance with the Indenture. In accordance with any applicable provisions of the Indenture, at the request of the Company, the Issuer will take any action directed by the Company to the extent required under, or permitted by, the provisions of the Indenture or the Loan Agreement. The Company, in turn, will take all action required to be taken by the Company in the Indenture as if the Company were a party to the Indenture.

Repayment Terms. The Company will agree to repay the Loan, as follows: on or before any Interest Payment Date for the Series 2010 Bonds or any other date that any payment of interest, principal or Redemption Price on the Series 2010 Bonds is required to be made in respect of the Series 2010 Bonds pursuant to the Indenture (which payments for principal and interest will be in the respective amounts set forth on the debt service schedule attached to the Loan Agreement and as amended from time to time pursuant to the Indenture), until the payment of interest, principal, or Redemption Price on the Series 2010 Bonds have been fully paid or provision for the payment thereof has been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in the applicable account of the Debt Service Fund, will enable the Trustee to pay to the Owners of the Series 2010 Bonds the amount due and payable on such date as interest, principal or Redemption Price on the Series 2010 Bonds as provided in the Indenture.

Obligations of Company Unconditional. The obligations of the Company to make payments as required above and to observe and perform all covenants under the Loan Agreement will be absolute and unconditional.

Prepayment Terms. The Company will have the option to prepay its obligations under the Loan Agreement at the times and in the amounts as necessary to cause the Series 2010 Bonds to be redeemed in accordance with the terms of the Indenture and the Series 2010 Bonds. The Issuer, at the request of the Company, if applicable, will take all steps necessary under the applicable redemption provisions of the Indenture to effect redemption of all or a part of the Series 2010 Bonds. For more information regarding the redemption terms under the Indenture, see "THE SERIES 2010 BONDS—Redemption."

Company to Provide Funds. In the event that proceeds derived from the Loan, or any other available (or to be available) funds and other funds pursuant to the Concession Agreement are not sufficient to finance the Project Costs and pay all Cost of Issuance relating to the Series 2010 Bonds, the Company will not be entitled to any reimbursement from the Issuer or the Trustee for the payment of such costs nor will the Company be entitled to any abatement, diminution or postponement of its payment obligations under the Loan Agreement.

Covenants of the Company

In the Loan Agreement, the Company will undertake to comply with certain covenants, including, but not limited to the following:

Delivery of Additional TABOR Portion Notice. The Company will deliver to the District and the Trustee an Additional TABOR Portion Notice pursuant to the Concession Agreement as follows: (a) prior to the effective

date, if applicable, of an amendment to the State Constitution known as "Amendment 61" that will be voted on by the people of Colorado on November 2, 2010; or (b) prior to the effective date of any other amendment to the State Constitution or any legislation that would, in the reasonable determination of either (1) the Company or (2) the Trustee, at the written direction of the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds provided in accordance with the Indenture, adversely affect the District's ability or obligation to pay the Additional TABOR Portion. If such determination in (2) above is made by the Trustee at the direction of a majority of the Owners of the Series 2010 Bonds, it must be evidenced by a written notice filed with the Company and the Additional TABOR Portion Notice must be delivered promptly upon the receipt thereof by the Company. For more information on "Amendment 61," see "RISK FACTORS" herein.

Transaction Documents. The Company will (a) perform and observe all of its covenants and its other obligations contained in each Transaction Document to which it is a party and (b) enforce against any counterparty to a Transaction Document each covenant or obligation of such party in accordance with its terms, except, in the case of clauses (a) and (b) above, to the extent that the failure to do any of the foregoing could not reasonably be expected to have a Material Adverse Effect. The Company will not enter into any material contracts or agreements (other than the Transaction Documents or documents incidental or ancillary thereto) that are not related to the Project or incident or ancillary thereto.

Limitation on Fundamental Changes; Sale of Assets, Etc. The Company will not (a) merge, liquidate or dissolve or enter into any consolidation, amalgamation, demerger, reconstruction, partnership, profit-sharing or any analogous arrangement or wind up, liquidate or dissolve or take any action that would result in the liquidation or dissolution of the Company; or (b) sell, assign or dispose of or direct the Trustee or the Account Bank, as applicable, to sell, assign or dispose of, any material assets of the Project in excess of $5,000,000 per year except: (i) sales or other dispositions in the ordinary course of business or contemplated by or permitted under the Concession Agreement and the other Material Project Contracts, (ii) sales or other dispositions of damaged, obsolete, worn out or defective equipment in the ordinary course of business, (iii) sales or other dispositions of surplus property not required for the construction or operation of the Project in the ordinary course of business, (iv) sales, transfers or other dispositions of Permitted Investments or solely, with respect to the Lockbox Account Collateral, transfer, sales or other dispositions of Account Agreement Permitted Investments and (v) sales that would constitute Permitted Indebtedness.

Material Project Contracts. The Company will not amend or waive in any material respect or terminate any Material Project Contract, including the Trustee's Instructions (Attachment 25), delivered by the District pursuant to the Concession Agreement, or enter into any other material agreement without the prior written consent of the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds provided in accordance with the Indenture; *provided* that (a) the Company and the O&M Contractor may enter into change orders under the O&M Contract required for compliance with the Concession Agreement, (b) the Company and the Design Build Contractor may enter into change orders under the Design Build Contract and the Rolling Stock Supply Contract required for compliance with the Concession Agreement, (c) the Company, the Design Build Contractor and the O&M Contractor may enter into change orders under the Design Build Contract, the Rolling Stock Supply Contract and the O&M Contract if such change will not require the payment by the Company in any year to exceed in the aggregate an amount equal to $10,000,000 without the approval of the Technical Advisor and over $10,000,000 with the written approval of the Technical Advisor and (d) the Company may amend, waive or terminate any Material Project Contract if such amendment or termination could not reasonably be expected to have a Material Adverse Effect, and if such Material Project Contract is being terminated and if such Material Project Contract is the Design Build Contract, the Design Build Contract (i) is replaced by a replacement agreement between the Company and another counterparty (taking into consideration any Design Build Guarantor) with similar or greater creditworthiness and experience as the counterparty being so replaced and (ii) provides projected economic benefits for the Project that are, in light of the material risks and liabilities of such replacement contract, taken as a whole, at least as favorable as the benefits under the existing contract, in light of the material risks and liabilities of such existing contract.

Reporting on Variances in O&M Expenditures. Not later than 90 days after the end of each fiscal quarter of the Company occurring after the Revenue Service Commencement Date with respect to the East Corridor Service, the Company will deliver to the Trustee and the Issuer a report showing (a) the operating data for the Project for the previous quarter and for the year to date, including total Project Revenues and total O&M Expenditures incurred and

(b) the variances for such periods between the actual Project Revenues and the budgeted Project Revenues and the actual O&M Expenditures incurred and the budgeted O&M Expenditures, together with a brief narrative explanation of the reasons for any such variance of 10% or more.

Limitation on Partial Termination Payments under the Concession Agreement. Without the consent of the Trustee given solely at the written direction of 100% of the Owners of the Series 2010 Bonds, provided in accordance with the Indenture, the Company will not give its consent to the District regarding the payment of only a portion of any outstanding Applicable Termination Amount owed to the Company in connection with a refinancing of the TABOR Portion and Additional TABOR Portion pursuant to the Concession Agreement. Nothing in the foregoing requires the Trustee's consent of the payment of the whole amount of any outstanding Applicable Termination Amount.

Additional Covenants. The following briefly summarizes additional covenants of the Company (which covenants may be qualified by materiality and other exceptions). See APPENDIX I—"SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT—Covenants of the Company."

(a) Maintenance of the Company's existence, qualification to do business, and all relevant and material rights, franchises, privileges and consents.

(b) No sale or other disposition of the Company's interests under the Concession Agreement.

(c) No creation or incurrence of any Security Interest with respect to any property or asset, including its revenues, or rights in respect thereof other than Permitted Security Interests.

(d) No suspension or abandonment of the Project.

(e) Operations and maintenance of the Project in accordance with the Concession Agreement, applicable laws, governmental approvals and required insurance policies.

(f) Maintenance of required insurance.

(g) Employment and maintenance of independent auditors of nationally recognized standing to audit its annual financial statements.

(h) Delivery of the following information to the Issuer and the Trustee:

(i) unaudited quarterly and audited annual financial statements together with certifications from the Company and, as to the audited statements, from the auditor;

(ii) simultaneously with delivery of the financial statements in subclause (i), a certificate of the Company stating that no Event of Default has occurred and is continuing;

(iii) construction progress reports;

(iv) details of: (A) any actual litigation or a claim in excess of $10,000,000 or in any lesser amount which could reasonably be expected to have a Material Adverse Effect, (B) any Potential Event of Default or Event of Default, and (C) any penalties or damages due under the Material Project Contracts; and

(v) notices of: (A) default or termination delivered to the Company with respect to any Material Project Contract, (B) any material insurance claims in excess of $5,000,000, (C) the occurrence of any Force Majeure Event, Relief Event, Concessionaire Termination Event, RTD Termination Event or FM Termination Event under any Material Project Contract, (D) any new or historical Release of Hazardous Materials (other than previously disclosed) that could reasonably be expected to cause or does cause a Material Adverse Effect, (E) if the Availability Ratio of any Commuter Rail Service is less than 90% in six

or more months of any eight-month period, (F) any material Governmental Approval that will not be granted or renewed at all, or in time to allow continued operation of the Project, or will be granted or renewed on terms materially more burdensome than proposed, or will be terminated, revoked or suspended, (G) any casualty, damage or loss to the Project in excess of $5,000,000, (H) any proposed condemnation, eminent domain or similar action with respect to all or a substantial portion of the property of the Project by the District or any other Governmental Authority and (I) the occurrence of any Appropriation Deficiency.

(i) Delivery to the Dissemination Agent for delivery to EMMA, in an electronic format as prescribed by the MSRB, of the following information:

(i) On or before the 15th day following the end of each calendar month during the Design Build Period, a monthly construction report containing the following information: (A) executive summary; (B) report on schedule variances; (C) occurrence of any Relief Events, Force Majeure Events and Changes; (D) cash flow payment curve; (D) list of activities or milestones expected to be completed by the District or a Project Third Party during the next month; (E) design, construction and manufacturing critical issues, including without limitation draws on letters of credit provided by the Design Build Contractor during the Design Build Period; and (F) environmental mitigation status including compliance/non-compliance reports, completed mitigation efforts, public complaints, and non-compliance issues raised by regulatory/oversight agencies, in each case to the extent such information is included in the reports required to be delivered by the Company to the District under the Concession Agreement; and

(ii) Not later than 90 days after the end of each fiscal quarter of the Company occurring after the Revenue Service Commencement Date with respect to the East Corridor Service, a report showing (A) the operating data for the Project for the previous quarter and for the year to date, including total Project Revenues and total O&M Expenditures incurred and (B) the variances for such periods between the actual Project Revenues and the budgeted Project Revenues and the actual O&M Expenditures incurred and the budgeted O&M Expenditures, together with a brief narrative explanation of the reasons for any such variance of 10% or more.

(j) Establishment and maintenance of each Project Account and other accounts required by the Financing Documents and no accounts maintained by the Company other than as contemplated in the Financing Documents.

(k) Compliance with all applicable laws.

(l) No expenditure of proceeds of the Series 2010 Bonds except pursuant to the Indenture and the Loan Agreement. The Company will comply with the requirements and covenants in the Federal Tax Certificate.

(m) Executing and delivering of further instruments as required for carrying out the Loan Agreement and ensuring the liens granted pursuant to the Security Documents.

(n) Obtaining and maintenance by the Company of all necessary governmental approvals.

(o) Timely payment and discharge of taxes.

(p) No engagement by the Company in any business other than Project activities.

(q) No investments by the Company, or by the Trustee or the Account Bank, as applicable, upon direction from the Company, other than Permitted Investments and solely with respect to the Lockbox Account Collateral, Account Agreement Permitted Investments.

(r) The Company will not create, incur or assume any indebtedness other than Permitted Indebtedness.

(s) No material transaction or agreement with any Affiliate unless entered into on fair and commercially reasonable terms.

Events of Default under the Loan Agreement

The following events will be "Events of Default" under the Loan Agreement (subject to certain cure periods, materiality and other qualifications, as applicable). See APPENDIX I—"SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT—Events of Default."

(a) Failure by the Company to pay any amount required to be paid as described in the subsection "Loan Agreement—*Repayment Terms*" above.

(b) Failure by the Company to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Loan Agreement, the Lockbox Account Agreement or any other Financing Documents, other than as referred to in (a) above.

(c) The occurrence of a Bankruptcy Event with respect to the Company.

(d) Any of the representations, warranties or certifications of the Company made in or delivered pursuant to any Financing Document, including the Loan Agreement, will prove to have been incorrect in any material respect when made.

(e) Occurrence of a Concessionaire Termination Event and such Concessionaire Termination Event continues beyond any cure period applicable to the Company and has not been waived by the District.

(f) Failure by the Company to perform or observe any material covenant, agreement or obligation under any Material Project Contract.

(g) One or more non-appealable judgments against the Company for the payment of money in an aggregate amount in excess of $10,000,000.

(h) Any Sponsor fails to perform its obligations under the Equity Contribution Agreement.

(i) The Concession Agreement for any reason ceases to be a valid and binding obligation of the District.

(j) The Company suspends or abandons all or a material part of the Project or its activities to design, develop, cause the construction of, operate or maintain the Project in each case, resulting in any Concessionaire Termination Event.

(k) Any Financing Document ceases to be in effect, unless otherwise in accordance with its terms or unless such document is replaced by a contract on substantially similar terms with a counterparty reasonably acceptable to the Trustee as instructed by Owners of a majority in the aggregate principal amount of the Series 2010 Bonds in accordance with the Indenture.

(l) The Design Build Contract is terminated during the Applicable Design Build Period, the Rolling Stock Supply Contract is terminated during the Applicable Design Build Period and/or the O&M Contract is terminated during the Applicable Operating Period and the Company has not entered into a replacement O&M Contract or Design Build Contract or, as the case may be, the Design Build Contractor has not entered into a replacement Rolling Stock Supply Contract pursuant to the terms of the Concession Agreement and the Financing Documents.

(m) Any Security Document ceases, except in accordance with its terms or as expressly permitted under the Financing Documents, to be effective to grant a perfected Security Interest on any material portion of the

Project Collateral described therein, other than as a result of actions or failure to act by the Trustee or any other Secured Party.

(n) A Change of Control with respect to the Company will have occurred.

(o) Any Insurance required under the Financing Documents is not, or ceases to be, in full force and effect at any time when it is required to be in effect.

(p) Failure to achieve the Revenue Service Commencement Date with respect to the East Corridor service by the Bondholder Longstop Date (as such date may be extended in accordance with the terms of the Concession Agreement);

provided, however, there shall be no Event of Default under clause (l) or (p) above if an RTD Termination Event has occurred.

Remedies on Event of Default

Whenever any Event of Default under the Loan Agreement will have occurred and be continuing, the Trustee, or the Issuer with the written consent of the Trustee, may, in conjunction with its available remedies under the Indenture, take one or any combination of the following remedial steps, by notice to the Company and the Account Bank:

(a) Declare that all or any part of any amount outstanding under the Loan Agreement is (i) immediately due and payable, and/or (ii) payable on demand by the Trustee, and any such notice will take effect in accordance with its terms but only if all amounts payable with respect to the Outstanding Bonds are being accelerated, or if all of the Outstanding Bonds are being defeased under the terms of the Indenture or otherwise paid in full;

(b) Have reasonable access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Company during regular business hours of the Company;

(c) Take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Loan Agreement;

(d) Pursuant to the terms of the Lockbox Account Agreement, direct the Account Bank to take any and all actions necessary to implement any available remedies with respect to the Lockbox Account Collateral under the Lockbox Account Agreement; or

(e) Pursuant to the terms of the Security Documents, take or cause to be taken any and all actions necessary to implement any available remedies with respect to the Project Collateral under any of the Security Documents.

Any amounts collected pursuant to action taken under this section "*Remedies on Event of Default*" and the Security Documents paid to the Trustee will be applied in accordance with the provisions of the Indenture.

Any rights and remedies as are given to the Issuer under the Loan Agreement will also extend to the Owners of the Series 2010 Bonds, and the Trustee, subject to the provisions of the Indenture, will be entitled to the benefit of all covenants and agreements contained in the Loan Agreement, subject to the terms of the Security Documents.

Amendments, Changes and Modifications

Subsequent to the issuance of the Series 2010 Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise expressly provided in the Loan Agreement, the Loan Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of the Indenture.

For more detailed information relating to the terms of the Loan Agreement in general, including provisions relating to covenants, defaults and terminations, see APPENDIX H—"SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT."

Security Agreement

The Company and the Trustee will enter into a Security Agreement (the "Security Agreement"), pursuant to which the Company will grant a Security Interest on all of its personal property and fixtures.

Security Interest

In order to secure the prompt irrevocable payment in full when due of the Bond Obligations and the Promissory Note Obligations, the Company will pledge and grant to the Trustee, for the benefit of the Secured Parties and the Promissory Note Obligees, a Security Interest on all of its right, title and interest, whether now owned or in the future acquired by it and whether now existing or in the future coming into existence and wherever located in and to all of the personal property and fixtures of the Company (the "Collateral"). The Collateral includes the Company's rights, title and interest in, to and under the Concession Agreement, the Account Collateral (which includes all "securities accounts," all "deposit accounts" and all "proceeds," all as defined under the UCC) and all accounts and general intangibles (including payment intangibles), instruments, equipment, inventory, agreements, contracts, tangible and intangible property and fixtures, governmental approvals, proceeds of insurance policies and other associated proceeds and profits, as further detailed in the Security Agreement; provided that the Promissory Note Obligations shall not be secured by the Debt Service Reserve Account or any Indenture Account Collateral related thereto or any "proceeds" thereof.

Notwithstanding anything to the contrary in the Security Agreement, the Company will remain liable for all obligations under and in respect of the Collateral and nothing contained in the Security Agreement is intended to, or will be, a delegation of its duties to the Trustee or the Secured Parties.

Remedies

If an Event of Default under the Indenture will have occurred and be continuing, to the extent permitted by applicable law and subject to the Indenture, the Trustee may exercise remedies authorized by law, as further detailed in the Security Agreement, including: (a) the right to require the Company to assemble the Collateral owned by it at such place or places, reasonably convenient to both the Trustee and the Company, designated in the Trustee's request; (b) the right to make any reasonable compromise or settlement with respect to any of the Collateral and to extend the time of payment, arrange for payment in installments, or otherwise modify the terms of all or any part of the Collateral; (c) the right to, in its name or in the name of the Company or otherwise, demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for all or any part of the Collateral, but will be under no obligation to do so; (d) the right to, upon 15 days' prior written notice to the Company of the time and place, with respect to the Collateral or any part thereof that will then be or will thereafter come into the possession, custody or control of the Trustee or the other Secured Parties (or any of their respective agents), sell, lease, assign or otherwise dispose of all or any part of such Collateral, at such place or places as the Trustee deems best, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required by this clause (d) or by applicable statute and cannot be waived); (e) the right to exercise, all of the rights, remedies, powers and privileges with respect to the Collateral of a secured party under the UCC; and (f) to the full extent provided by law, the right to have a court having jurisdiction appoint a receiver, which receiver will take charge and possession of and protect, preserve, replace and repair the

Collateral or any part thereof, and manage and operate the same, and receive and collect all rents, income, receipts, royalties, revenues, issues and profits therefrom.

Membership Interest Pledge Agreement

DTH and the Trustee, on behalf of the Owners of the Series 2010 Bonds and the other Secured Parties and the Promissory Note Obligees, will enter into the Membership Interest Pledge Agreement to be dated as of August 1, 2010 (the "Pledge Agreement").

Grant

DTH will assign, pledge and grant to the Trustee, for the ratable benefit of the Owners of the Series 2010 Bonds and the other Secured Parties and the Promissory Note Obligees, a security interest in all of its respective right, title and interest in and to the following property, whether now owned or hereafter acquired (the "Pledged Collateral"):

(i) (1) its limited liability company interests (as defined in Section 18-101(8) of Title 6 of the Delaware Code) in the Company and (2) all options, warrants and rights to purchase limited liability company interests in the Company and all dividends, distributions, cash, securities, instruments and other property from time to time paid, payable or otherwise distributed in respect of or in exchange for all or any part of its limited liability company interests in the Company and all proceeds thereof (the "Pledged Membership Interests");

(ii) any Indebtedness owed to DTH by the Company from time to time, including any instruments (as such term is defined in the UCC) or payment intangibles (as such term is defined in the UCC) evidencing or relating to such Indebtedness; provided that, to the extent that the principal amount of such Indebtedness exceeds the aggregate amount of the Sponsors' capital commitments, such Indebtedness is not required to be pledged; and

(iii) all proceeds, products and accessions of and to any and all of the foregoing, including, without limitation, "proceeds" as defined in the UCC, including whatever is received upon any sale, exchange, collection or other disposition of any of the Pledged Membership Interests, and any property into which any of the Pledged Membership Interests are converted, whether cash or non-cash proceeds, and any and all other amounts paid or payable under or in connection with any of the Pledged Membership Interests;

provided, however, that any and all amounts distributed or paid to DTH in accordance with the Lockbox Account Agreement shall be free of the Security Interest of the Pledge Agreement.

Additional Pledged Collateral

Subject to Section 5.01 of the Pledge Agreement regarding certain distribution and voting rights, upon obtaining any additional Pledged Collateral, DTH is obligated to hold such Pledged Collateral in trust for the Trustee and segregate such Pledged Collateral from its other property or funds and promptly deliver such Pledged Collateral to the Trustee, in suitable form for transfer on delivery or accompanied by duly executed instruments of transfer or assignment, where applicable.

Remedies

Upon the occurrence and during the continuance of an Event of Default, the Trustee has the right to exercise, in addition to all other rights and remedies granted to it, all rights and remedies with respect to the Pledged Collateral of a secured party under the UCC and such additional rights, remedies, powers and privileges to which a secured party is entitled under the laws in effect in any jurisdiction where any rights, remedies, powers and privileges in respect of the Pledge Agreement or the Pledged Collateral may be asserted, including the right, to the maximum extent permitted by law, to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Collateral as if the Trustee were the sole and absolute owner of the Pledged Collateral.

Without limiting the generality of the foregoing, the Trustee, without demand, presentment, protest, advertisement, or notice of any kind has the right in such circumstances, upon ten (10) Business Days' prior written notice to DTH of the time and place, to sell, lease, assign, give option or options to purchase, or otherwise dispose of all or any part of such Pledged Collateral at such place or places as the Trustee deems best, for cash, for credit or for future delivery (without thereby assuming any credit risk) and at public or private sale, without demand of performance or notice of intention to effect any such disposition or of time or place of any such sale (except such notice as is required by the Pledge Agreement or by applicable statute and cannot be waived) and the Trustee or any other Person may be the purchaser, lessee or recipient of any or all of the Pledged Collateral so disposed of and thereafter hold the same absolutely free from any claim or right of whatsoever kind.

Non-Recourse to DTH

Notwithstanding anything to the contrary contained in the Pledge Agreement, (a) neither DTH nor any past, present or future officers, directors, employees, shareholders, agents, attorneys or representatives of DTH or any of its Affiliates (other than the Company) (collectively, the "Non-Recourse Parties") shall have any obligations or liabilities under the Financing Documents or be liable for any amount payable under the Pledge Agreement or any other Financing Document, other than obligations or liabilities with respect to any Non-Recourse Party arising under any Financing Document to which such Non-Recourse Party is a party; (b) no Secured Party shall seek a money judgment or deficiency or personal judgment against any Non-Recourse Party for payment of the Indebtedness secured by this Agreement; and (c) no property or assets of any Non-Recourse Party, other than the Pledged Collateral, shall be sold, levied upon or otherwise used to satisfy any judgment rendered in connection with any action brought with respect to the Pledge Agreement. The foregoing acknowledgments, agreements and waivers shall survive the termination of the Pledge Agreement, shall be enforceable by any Non-Recourse Party, and are a material inducement for DTH's execution of the Pledge Agreement. Nothing in this paragraph shall limit or affect, or be construed to limit or affect, the obligations and liabilities of DTH arising under the Pledge Agreement or arising from liability pursuant to any applicable Law for the willful misconduct or fraudulent actions of DTH or, with respect to any other Non-Recourse Party, arising under any Financing Document to which such Non-Recourse Party is a party.

Leasehold Mortgages

The Company will enter into a Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing for each county where the Property is located each to be dated as of August 1, 2010 (collectively, the "Leasehold Mortgages"), for the benefit of the Trustee, pursuant to which the Company will grant a lien on all of its real property and leasehold interests.

Security Interest

In order to secure the prompt irrevocable and indefeasible payment in full when due of the Bond Obligations, the Company will grant to the Trustee, for the benefit of the Secured Parties, a Security Interest in all of the Company's present and future right, title and interest in and to the Property, including, without limitation, the Commuter Rail Network, the Improvements, and the Rolling Stock which it acquired through the Concession Agreement or otherwise.

As part of the security for the Loan Agreement and the Company's obligations thereunder, the Company will assign and transfer to the Trustee all of the Company's right, title and interest in and to all Leases and Rents, if any, from the Property subject to the Leasehold Mortgages. Under the Leasehold Mortgages this grant will establish a present, absolute and irrevocable transfer and assignment to the Trustee of such Leases and Rents and to authorize and empower the Trustee to enforce such Leases and to collect and receive all Rents without the necessity of further action on the part of the Company. Promptly upon reasonable request by the Trustee, the Company will execute and deliver at the Company's expense such further assignments as the Trustee may from time to time require. This assignment of Leases and Rents will be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. However, until the occurrence and continuance of an Event of Default, the Trustee will grant to the Company a revocable license to collect and receive all Rents and enforce all Leases, to hold all Rents in trust for the benefit of the Trustee and to apply all Rents, as necessary, to pay the installments of interest and principal, if any, then due and payable under the Loan Agreement and the other amounts

then due and payable by the Company and to pay the costs and expenses of managing, operating and maintaining the Property, including utilities, taxes and insurance premiums, improvements and other capital expenditures.

The Leasehold Mortgages will also be a security agreement under the Uniform Commercial Code of the State, wherein the Company will grant to the Trustee a security interest of its right, title and interest in and to any Personalty. Without the prior written consent of the Trustee, the Company shall not create or permit to exist any other lien or security interest in any Personalty (exclusive of permitted exceptions under the Leasehold Mortgages). If an Event of Default by the Company has occurred and is continuing under the Leasehold Mortgages, the Trustee shall have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by Leasehold Mortgages or existing under applicable law. In exercising any remedies under the Leasehold Mortgages against the Company, the Trustee may exercise its remedies against the Personalty separately or together and in any order, without in any way affecting the availability of the Trustee's other remedies under the Leasehold Mortgages and/or under applicable law.

As part of the Leasehold Mortgages, the Company will agree to fully and promptly perform and comply with all material obligations of the tenant under the Concession Agreement without relying on any grace period provided therein, and if the Company shall fail to do so, the Trustee may (but shall not be obligated to) take any such action, without awaiting the expiration of any grace period, as the Trustee deems necessary to prevent or to cure any default by the Company thereunder; upon receipt by the Trustee from the District of any written notice of default by the tenant, the Trustee may rely thereon and take any such action even though the existence of such default or the nature be questioned or denied by or on behalf of the Company; the Company will grant to the Trustee, and will agree that the Trustee has the absolute and immediate right (but no obligation) to enter in and upon the Property or any part to such extent and as often as the Trustee, in its sole discretion, deems necessary in order to prevent or to cure any such default by the Company; the Company shall pay to the Trustee, immediately and without deduction, demand, offset or counterclaim, all sums paid by the Trustee pursuant to the Leasehold Mortgages, with interest thereon from the date of each such payment at the default rate under the Loan Agreement; and, without limitation to any other provision hereof, all sums so paid and expended by the Trustee, and the interest, shall be added to and be secured by the lien of the Leasehold Mortgages. Under the Leasehold Mortgages, the Company will agree not to suffer or incur, or permit to be suffered or incurred, any default on the part of the tenant under the Concession Agreement.

Remedies

The Leasehold Mortgages provide that the occurrence of an Event of Default under the Loan Agreement shall be deemed an Event of Default under the Leasehold Mortgages. If an Event of Default shall occur and be continuing under the Leasehold Mortgages, the Trustee may, subject to the terms of the Loan Agreement and the Leasehold Mortgages, take such actions to protect and enforce its rights against the Company and its respective rights in and to the Property, including: (a) requesting the appointment of a receiver for the Property; (b) causing the Property encumbered by the Leasehold Mortgages or any part thereof to be sold under a power of sale in the manner set forth in the Leasehold Mortgages and the law of the State; (c) the Trustee may but shall not be obligated to perform or attempt to perform any covenant of the Company and any payment made or expense incurred in the performance or attempted performance of any such covenant; (d) the Trustee may take exclusive possession of the Property and of all books, records, and accounts relating thereto and to exercise without interference from the Company any and all rights which the Company has with respect to the management, possession, operation, protection, or preservation of the Property, including without limitation the right to rent the same for the account of the Trustee and to deduct from such Rents all costs, expenses, and liabilities of every character incurred by the Trustee in collecting such Rents and in managing, operating, maintaining, protecting or preserving the Property; or (e) exercise any remedies under the Uniform Commercial Code.

Lockbox Account Agreement

The Lockbox Account Agreement will be entered into by the Company, the Trustee (on behalf of the Secured Parties), the Account Bank and the Securities Intermediary.

Pursuant to the Lockbox Account Agreement, certain Lockbox Project Accounts will be established in the name of the Company and under the exclusive control of the Account Bank. The Company will pledge and grant to

the Trustee, for the benefit of the Secured Parties, a security interest in and lien on such Lockbox Project Accounts and the funds and investments on deposit therein. All Project Revenues, including Construction Payments, Service Payments and Equity Contributions, will be deposited into certain Project Accounts, and the Company may authorize the Account Bank to credit funds to or deposit funds in, and to withdraw and transfer funds from, each such Lockbox Project Account to pay for or reimburse (a) a portion of the Project Costs, (b) Cost of Issuance of any Bonds pursuant to the Indenture, and (c) a portion of the interest coming due during the Design Build Period on any Bonds issued pursuant to the Indenture or any other uses in accordance with the Lockbox Account Agreement, subject to the satisfaction by the Company of certain requirements for withdrawals and transfers set forth in the Lockbox Account Agreement. See "ACCOUNTS AND FLOW OF FUNDS" for a further description.

District Not Liable on Bonds

The Series 2010 Bonds are special limited obligations of the District payable solely from payments received from the Company pursuant to the Loan Agreement. The Owners of the Series 2010 Bonds may not look to any revenues for the District for repayment of the Series 2010 Bonds. The only sources of repayment of the Bonds are revenues provided by the Company to the District pursuant to the Loan Agreement and the Security Interests that are part of the Trust Estate. The Series 2010 Bonds do not constitute an indebtedness of the District or a multiple fiscal year obligation of the District within the meaning of any provisions of the State Constitution or the laws of the State.

ACCOUNTS AND FLOW OF FUNDS

General

Various accounts, including the Project Accounts, will be created under the Indenture and the Lockbox Account Agreement in relation to the financing and operation of the Project, including the payment of principal of and interest on the Bonds when due.

Accounts Under the Indenture

The following accounts will be established under the Indenture:

(a) the Indenture Construction Account, including the Series 2010 Bonds Sub-Account; and

(b) the Indenture Change In Law Contingency Account.

There is also created the Debt Service Reserve Account, the Debt Service Fund and the Rebate Fund under the Indenture for the benefit of the Owners of the Bonds. For more information on the Debt Service Reserve Account, the Debt Service Fund and the Rebate Fund, see "SECURITY FOR THE BONDS—Indenture." All moneys held under the Indenture will be distributed in accordance with the Indenture as set forth herein and in "SECURITY FOR THE BONDS—Indenture."

Lockbox Project Accounts Under the Lockbox Account Agreement

The following Lockbox Project Accounts will be established under the Lockbox Account Agreement:

(a) the Revenue Account, including the Series 2010 Interest Sub-Account and the Series 2010 Principal Sub-Account;

(b) the Borrower Construction Account, including the Construction Payment Sub-Account and the Equity Contribution Sub-Account;

(c) the Distribution Account;

(d) the Management Services Fee Account;

(e) the Renewal Works Reserve Account;

(f) the Operating Account; and

(g) the Borrower Change In Law Contingency Account.

Upon the issuance of any Additional Parity Bonds, the Account Bank is authorized and instructed pursuant to the Lockbox Account Agreement to establish within the Revenue Account an interest sub-account and a principal sub-account, each subject to the Lockbox Account Agreement, for each series of Additional Parity Bonds issued (each such interest sub-account and the Series 2010 Interest Sub-Account, an "Applicable Interest Sub-Account" and each such principal sub-account and the Series 2010 Principal Sub-Account, an "Applicable Principal Sub-Account"). The Account Bank may establish and maintain additional sub-accounts within any of the Lockbox Project Accounts upon the written instruction of the Company. In such written instruction, the Company will expressly provide for the purposes and the term of any such sub-accounts and for any deposits and withdrawals in those circumstances.

Except as expressly provided in the Lockbox Account Agreement, all of the Lockbox Project Accounts will be under the control of the Account Bank and the Company will not have any right to withdraw funds from any Lockbox Project Account.

Description of Accounts Under the Indenture

Indenture Construction Account

The Indenture will create the Indenture Construction Account into which all net proceeds of the Bonds will be deposited, except for such proceeds deposited into the Debt Service Reserve Account and the Indenture Change In Law Contingency Account pursuant to the Indenture. There will also be deposited into the Indenture Construction Account excess amounts in the Rebate Fund (as described in "SECURITY FOR THE BONDS—Indenture"), certain amounts in the Indenture Change In Law Contingency Account and all other moneys received by the Trustee with directions from the Company that such moneys are to be deposited into the Indenture Construction Account.

Amounts in the Series 2010 Bonds Sub-Account and any sub-account created in connection with the issuance of any Additional Parity Bonds will be used to pay, or reimburse for a prior payment of, a portion of the Project Costs, including the Cost of Issuance of the Series 2010 Bonds, and a portion of the interest coming due on the Series 2010 Bonds during the Design Build Period, to the extent permitted by the Code. Such withdrawals, transfers and payments will be made in accordance with the procedures set forth in the subsection "Flow of Funds—*Construction Accounts—During Design Build Period*" below.

Indenture Change In Law Contingency Account

The Indenture will create an Indenture Change In Law Contingency Account, which will be funded with proceeds of the Bonds on the Closing Date in the amount of $3,000,000. Subject to compliance with the tax covenant set forth in the Loan Agreement, amounts deposited in the Indenture Change In Law Contingency Account may be used for any payments required by the Company in connection with Incurred Costs related to a Change in Law pursuant to the Concession Agreement. Pursuant to written instructions signed by a Company Representative delivered to the Trustee not later than the third Business Day prior to the expected date of applicable withdrawals and transfers, the Company will have the right to make withdrawals from the Indenture Change In Law Contingency Account for such purposes or to instruct the Trustee to transfer any moneys deposited in the Indenture Change In Law Contingency Account to the Series 2010 Bonds Sub-Account of the Indenture Construction Account. On the third anniversary of the Closing Date, without further instruction, the Trustee will transfer any moneys remaining on deposit in the Indenture Change In Law Contingency Account to the Indenture Construction Account, or any appropriate sub-account thereof.

Monthly Reports Between the Account Bank and the Trustee

To facilitate the administration of the funds and accounts under the Indenture and the related transfers between such funds and accounts and the accounts established and created pursuant to the Lockbox Account Agreement, as required under the Indenture, the Trustee will agree to provide a monthly report to the Account Bank four Business Days prior to each Transfer Date setting forth, among other things, the balance for each fund and account, including any sub-accounts, established and created pursuant to the Indenture. The Lockbox Account Agreement sets forth a similar monthly reporting requirement for the Account Bank and the Trustee.

Description of Lockbox Project Accounts Under the Lockbox Account Agreement

Revenue Account

All Project Revenues received by the Company after the first Revenue Service Commencement Date to occur with respect to the Project, and any Applicable Termination Amount received by the Company at any time (subject to the sections entitled "SECURITY FOR THE BONDS—Indenture—Use of Moneys Received from Exercise of Remedies," "Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default" and "Termination Proceeds" herein) will be deposited into the Revenue Account. Additionally, to the extent on any date of determination, amounts on deposit in the Debt Service Reserve Account are in excess of the Debt Service Reserve Requirement, such excess amounts will be deposited into the Revenue Account upon written instruction of the Company.

Subject to the subsection "Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default" below, the Account Bank will make withdrawals, transfers and payments from the Revenue Account in the amounts, at the times and for the purposes specified in the Lockbox Account Agreement. Such withdrawals, transfers and payments will be made each month on the Transfer Date in the order of priority set forth in the subsection "Flow of Funds—Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project" below.

The Company will deliver to the Account Bank (with a copy to the Trustee), the Revenue Account Transfer Certificate signed by a Company Representative, not later than the third Business Day prior to each Transfer Date. Each such Revenue Account Transfer Certificate will set forth the amounts proposed to be transferred from the Revenue Account to each other Project Account or other account of the Company on such Transfer Date in accordance with the Lockbox Account Agreement. Notwithstanding the foregoing, if the effective interest rate on the applicable Bonds has been provided or is known to the Account Bank at the time of the proposed transfer, the Account Bank is authorized under the Lockbox Account Agreement to transfer moneys on each Transfer Date from moneys on deposit in the Revenue Account in accordance with clauses fifth and sixth in the subsection "Flow of Funds—Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project" below to the Applicable Interest Sub-Account and the Applicable Principal Sub-Account of the Revenue Account, in such appropriate amounts, without receipt of any Revenue Account Transfer Certificate.

Neither the Trustee nor the Account Bank will be obligated to monitor or verify (a) the accuracy of any Revenue Account Transfer Certificate provided to the Account Bank (with a copy to the Trustee) for the transfer or deposit of funds with respect to the Revenue Account, or (b) the use of amounts withdrawn from the Revenue Account pursuant to written instructions given by the Company.

Borrower Construction Account

The Account Bank will deposit the following amounts received by it: (a) all drawings under the Equity Letters of Credit into the Equity Contribution Sub-Account of the Borrower Construction Account, including any relevant sub-accounts thereof (except that draws on the Equity Letters of Credit by the Trustee to pay interest on the Bonds after giving effect to amounts available in the Debt Service Reserve Account will be deposited directly to the Debt Service Fund); (b) all Construction Payments made to the Company prior to the Last Revenue Service Commencement Date into the Construction Payment Sub-Account of the Borrower Construction Account, including any relevant sub-accounts thereof; and (c) all other moneys received by the Account Bank that are accompanied by directions from the Company that such moneys are to be deposited into such sub-account of the Borrower Construction Account as the Company designates.

Project Costs and the payment on the Promissory Notes will be paid from the various sub-accounts of the Borrower Construction Account. The Company will be entitled to open new sub-accounts of the Borrower Construction Account in order to account for the receipt and disbursement of certain payments by providing to the Account Bank instructions in respect of the same. Amounts in the Borrower Construction Account, and any sub-account created in connection therewith, (a) will be used to pay, or reimburse for a prior payment of, (i) a portion of the Project Costs, (ii) Cost of Issuance of any Bonds pursuant to the Indenture, (iii) a portion of the interest coming due during the Design Build Period on any Bonds issued pursuant to the Indenture, and (iv) amounts outstanding under the Promissory Notes and (b) may be used to fund the Borrower Change In Law Contingency Account at the Company's option, pursuant to the terms of the Lockbox Account Agreement. Such withdrawals, transfers and payments will be made in accordance with the procedures set forth in the subsection "Flow of Funds—Construction Accounts—During Design Build Period" below.

Distribution Account

Any amounts payable to the Distribution Account pursuant to clause twelfth under the subsection "Flow of Funds" below will be paid to the Distribution Account and will remain in the Distribution Account until and unless the Company certifies that the Restricted Payment Conditions (as described below) have been satisfied in the applicable Distribution Account Release Certificate.

Funds on deposit in the Distribution Account may be paid to the Company (or to the order of the Company) on any Distribution Date on or after December 31, 2016; provided that (a) pursuant to a Distribution Account Release Certificate (substantially in the form set forth in the Lockbox Account Agreement), a Company Representative has certified that all of the Restricted Payment Conditions were satisfied on the Calculation Date immediately preceding the requested Distribution Date (or if such Distribution Date is a Calculation Date, on such Calculation Date) and (b) the Company delivers such Distribution Account Release Certificate signed by a Company Representative to the Account Bank (with a copy to the Trustee) within forty-five (45) days after the relevant Calculation Date and not later than the 3rd Business Day prior to the requested Distribution Date. The amount of funds available to be paid to the Company on any Distribution Date will be equal to the amount of funds in the Distribution Account on the relevant Calculation Date.

To the extent that any funds are on deposit in the Distribution Account, at the direction of the Company pursuant to a Lock-Up Funds Application Certificate (substantially in the form set forth in the Lockbox Account Agreement) delivered to the Account Bank (with a copy to the Trustee) not later than the 3rd Business Day prior to the expected date of the applicable transfers (which can be, but is not required to be, a Transfer Date) as set forth in such certificate, the Account Bank will apply the amount on deposit in the Distribution Account to fund a shortfall in clauses first through seventh under the subsection "Flow of Funds" below, as specified in the Lock-Up Funds Application Certificate.

Management Services Fee Account

The Management Services Fee will be due and payable to the Management Services Fee Account from the amounts on deposit in the Borrower Construction Account on each anniversary of the Closing Date occurring prior to December 31, 2016, and on December 31, 2016, as set forth in the Management Services Fee Account Certificate delivered to the Account Bank (with a copy to the Trustee) by the Company. Amounts in the Management Services Fee Account will be retained in the Management Services Fee Account until the Company first certifies that the Restricted Payment Conditions (as described below) are satisfied, upon which all amounts in the Management Services Fee Account will be transferred by the Account Bank to the account specified in the applicable Management Services Fee Account Certificate.

Renewal Works Reserve Account

In the event that the O&M Contractor fails to provide a Renewal Works Letter of Credit in the amount required under the O&M Contract (the difference between the face amount of the Renewal Works Letter of Credit required pursuant to the O&M Contract and the face amount of the Renewal Works Letter of Credit being the "Renewal Works Deficiency"), the Renewal Works Reserve Account will be funded in accordance with the provisions of clause eighth under the subsection "Flow of Funds" below. In the event that the O&M Contractor provides the Renewal Works Letter of Credit that it otherwise failed to deliver, the amount of the Renewal Works Deficiency that resulted from its failure to deliver such Renewal Works Letter of Credit will be released to the Revenue Account by the Account Bank without further instruction. Amounts in the Renewal Works Reserve Account shall be transferred by the Account Bank as directed in the applicable Renewal Works Reserve Account Withdrawal Certificate, provided that the Account Bank has received (with a copy to the Trustee) such Renewal Works Reserve Account Withdrawal Certificate signed by a Company Representative three Business Days in advance of the requested transfer.

Operating Account

From the Closing Date until the Last Revenue Service Commencement Date, withdrawals from the Borrower Construction Account and the Indenture Construction Account to pay O&M Expenditures will be deposited into the Operating Account. On and after the first Revenue Service Commencement Date to occur with respect to the Project, Project Revenues received by the Company will be transferred into the Operating Account in accordance with the provisions of the subsection "Flow of Funds" below. Any withdrawals from the Operating Account will not require compliance with any conditions (except that amounts withdrawn will be applied by the Company to pay O&M Expenditures). Unless a Trustee Enforcement Notice and Direction has been delivered to the Account Bank (or to the applicable financial institution with whom a replacement Operating Account is established, as the case may be), the Company will have the right to make withdrawals from the Operating Account.

Notwithstanding anything to the contrary in this paragraph, the Company may establish an operating account with another financial institution if (1) the replacement operating account contains a "deposit account" and, at the option of the Company, a "securities account" (both as defined in the UCC), (2) the Company executes a control agreement in the form attached to the Lockbox Account Agreement, or any other form of control agreement as agreed among the applicable financial institution, the Company and the Trustee and (3) the Company provides notice of the replacement operating account to the Account Bank (with a copy to the Trustee).

Borrower Change In Law Contingency Account

The Borrower Change In Law Contingency Account may be funded at any time with funds on deposit in the Borrower Construction Account or the Revenue Account in accordance with the Lockbox Account Agreement. Amounts deposited in the Borrower Change In Law Contingency Account may be used for any payments required by the Company in connection with Incurred Costs related to a Change in Law pursuant to the Concession Agreement. Pursuant to written instructions signed by a Company Representative delivered to the Account Bank (with a copy to the Trustee) not later than the third Business Day prior to the expected date of applicable withdrawals and transfers, the Company will have the right to make withdrawals from the Borrower Change In Law Contingency Account for such purposes or to instruct the Account Bank to transfer any moneys deposited in the Borrower Change In Law Contingency Account to the Borrower Construction Account or the Revenue Account.

Restricted Payment Conditions

Pursuant to the payment provisions set forth in the subsection "Flow of Funds" below, certain transfers, withdrawals and distributions may be made solely upon receipt by the Account Bank of a certificate from the Company, reasonably satisfactory to the Account Bank, certifying that all of the following conditions, on or with effect from any applicable date of determination on or after December 31, 2016 (the "Restricted Payment Conditions"), are satisfied:

(a) the amount on deposit in the Debt Service Reserve Account is sufficient to satisfy the Debt Service Reserve Requirement and the Renewal Works Deficiency is on deposit in the Renewal Works Reserve Account;

(b) the Total DSCR as of the most recent Calculation Date is greater than or equal to 1.10:100;

(c) the Loan Life Coverage Ratio as of the most recent Calculation Date is equal to or greater than 1.20:1.00;

(d) no Event of Default or Potential Event of Default pursuant to the terms of the Bonds and no Concessionaire Termination Event pursuant to the terms of the Concession Agreement has occurred and is continuing or would exist as a result of the making of the payment;

(e) the Last Revenue Service Commencement Date has been achieved; and

(f) if a Force Majeure Event has occurred and is continuing, the District has not failed to pay and has not indicated in writing to the Company that it has no obligation to pay the Service Payment under Section 39.4 or Section 39.5 of the Concession Agreement.

Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default

The Account Bank will comply with any certificate of the Company delivered to it pursuant to the Lockbox Account Agreement or the Indenture.

The Account Bank will not be obligated to monitor or verify (a) the accuracy of any certificate delivered to it pursuant to the Lockbox Account Agreement or other written instructions provided to the Account Bank for the transfer or deposit of funds with respect to any Lockbox Project Account, or (b) the use of amounts withdrawn from the Lockbox Project Accounts pursuant to written instructions given by the Company.

Upon receipt by the Trustee of enforcement directions pursuant to the Indenture and the occurrence and during the continuance of an Event of Default under the Financing Documents, the Trustee may notify the Account Bank in writing (with a copy delivered to the Company), of such Event of Default (each notice a "Trustee Enforcement Notice and Direction"), whereupon, to the extent provided in such Trustee Enforcement Notice and Direction (as the same may be supplemented and modified) (a) the Company will not have any further right to disbursements from the Project Accounts, and (b) the Trustee may (i) direct the Account Bank to liquidate and transfer any amounts then invested in Account Agreement Permitted Investments to the Lockbox Project Accounts or the Debt Service Fund or reinvest such amounts in other Account Agreement Permitted Investments as the Trustee may reasonably determine is necessary to perfect or protect any security interest granted or purported to be granted under the Lockbox Account Agreement or to enable the Account Bank, as agent for the Secured Parties, or the Trustee to exercise and enforce the Secured Parties' rights and remedies under the Lockbox Account Agreement or the other Financing Documents with respect to any Lockbox Account Collateral, (ii) exercise any and all rights and remedies available to it under the Lockbox Account Agreement or the other Financing Documents and/or as a secured party under the UCC, and (iii) demand, collect, take possession of, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon the Lockbox Account Collateral (or any portion thereof) as the Trustee may determine in its sole discretion.

Any amounts collected pursuant to action taken upon delivery of a Trustee Enforcement Notice and Direction and paid to the Trustee will be applied in accordance with the provisions of the Indenture.

Termination Proceeds

The Company will deposit in the Revenue Account proceeds of any Applicable Termination Amount, including any TABOR Portion or Additional TABOR Portion, received by the Company under the Concession Agreement in respect of a termination of the Concession Agreement, unless the Bonds have been accelerated, in which case, such proceeds shall be applied in accordance with "SECURITY FOR THE BONDS—Indenture—Use of Moneys Received from Exercise of Remedies." In connection with redemption of the Bonds as set forth in the Indenture, the Account Bank is instructed by the Company to deliver any lump sums in respect of such Applicable Termination Amount to the Trustee for application to the applicable sub-account of the Debt Service Fund.

Flow of Funds

Construction Accounts—During Design Build Period

Pursuant to the Indenture and the Series 2010 Bonds, all net proceeds of the Series 2010 Bonds will be distributed into the Indenture Construction Account for the purpose of paying interest on the Series 2010 Bonds during the Design Build Period and to pay Project Costs. Pursuant to the Lockbox Account Agreement, all Construction Payments and Equity Contributions will be deposited into the applicable sub-account of the Borrower Construction Account (except that Equity Contributions made pursuant to a draw on the Equity Letters of Credit to pay interest on the Bonds when due after giving effect to any amounts available in the Debt Service Reserve Account will be deposited to the Debt Service Fund pursuant to the Equity Contribution Agreement). Once the proceeds of the Series 2010 Bonds held in the Indenture Construction Account have been exhausted, the Company will use moneys on deposit in the Borrower Construction Account to pay Project Costs and a portion of the interest on the Series 2010 Bonds during the Design Build Period. Funds in the respective Construction Accounts will be used as follows:

Indenture Construction Account. Amounts in the Indenture Construction Account will be transferred by the Trustee as directed in the applicable Indenture Construction Account Withdrawal Certificate, on any Business Day upon receipt by the Trustee of such certificate signed by a Company Representative, and a related Technical Advisor Certificate signed by the Technical Advisor, if needed, not later than the third Business Day prior to the requested transfer. See APPENDIX G—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Establishment of Funds and Accounts—Indenture Construction Account."

Notwithstanding the preceding paragraph, at any time prior to the Last Revenue Service Commencement Date, the Trustee will (without further instruction) transfer moneys on deposit in the Indenture Construction Account, to the extent any such moneys are available, as follows:

(a) On any Transfer Date immediately prior to any Interest Payment Date, amounts on deposit in the Indenture Construction Account will be transferred to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of interest on the Bonds on such Interest Payment Date, after taking into account the amounts then on deposit in the Interest Account of the Debt Service Fund (if any) for payment of interest on the Bonds; and

(b) On any Transfer Date immediately prior to any Principal Payment Date, amounts on deposit in the Indenture Construction Account will be transferred to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of principal on the Bonds on such Principal Payment Date after taking into account the amounts then on deposit in the Principal Account of the Debt Service Fund (if any) for payment of principal of the Bonds.

At any time prior to the Last Revenue Service Commencement Date, if on the Business Day prior to any Transfer Date immediately prior to any Interest Payment Date or Principal Payment Date, as applicable, there are insufficient moneys on deposit in the Indenture Construction Account to pay interest or principal on the Bonds on the next Interest Payment Date or Principal Payment Date, as applicable, the Trustee will notify the Account Bank of such deficiency and direct the Account Bank to make a transfer of moneys from the Borrower Construction Account or the Revenue Account to the applicable sub-account of the Debt Service Fund pursuant to the Lockbox Account Agreement.

Borrower Construction Account. Amounts in the Borrower Construction Account will be transferred by the Account Bank as directed in the applicable Borrower Construction Account Withdrawal Certificate (substantially in the form set forth in the Lockbox Account Agreement) on any Business Day specified in such certificate, provided that the Account Bank has received (with a copy to the Trustee) such certificate signed by a Company Representative and accompanied by a related Technical Advisor Certificate (substantially in the form set forth in the Lockbox Account Agreement) signed by the Technical Advisor, if needed, not later than the third Business Day prior to the requested transfer. See APPENDIX H—"SUMMARY OF CERTAIN PROVISIONS OF THE LOCKBOX ACCOUNT AGREEMENT—Lockbox Project Accounts—The Borrower Construction Account."

Notwithstanding anything in the Lockbox Account Agreement to the contrary, the Account Bank will agree (without further instruction) to transfer moneys on deposit in the Borrower Construction Account as follows:

(a) On any Transfer Date immediately prior to any Interest Payment Date, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the interest due on the next Interest Payment Date, amounts on deposit in the Borrower Construction Account will be transferred by the Account Bank to the Trustee and applied by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of interest on the Bonds on such Interest Payment Date;

(b) On any Transfer Date immediately prior to any Principal Payment Date, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit in the Borrower Construction Account will be transferred by the Account Bank to the Trustee and applied by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of principal on the Bonds on such Principal Payment Date;

(c) If on any Transfer Date immediately prior to any Interest Payment Date, after giving effect to the transfers set forth in clause (a) above, but prior to giving effect to the transfers set forth in clause (b) above, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, insufficient

to pay the interest due on the next Interest Payment Date, amounts on deposit first in the Revenue Account, second in the Distribution Account, third in the Renewal Works Reserve Account, and fourth in the Applicable Principal Sub-Account shall be transferred to the Trustee for deposit by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make required payments of interest on the Bonds on such Interest Payment Date; and

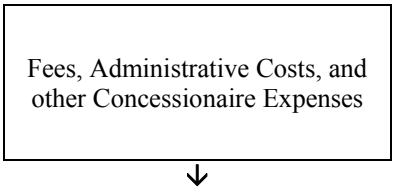
(d) If on any Transfer Date immediately prior to any Principal Payment Date, after giving effect to the transfers set forth in clauses (a) through (c) above, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit first in the Revenue Account, second in the Distribution Account and third in the Renewal Works Reserve Account, shall be transferred to the Trustee for deposit by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payment of principal on the Bonds on such Principal Payment Date.

provided that for as long as there are sufficient funds available for the payment of principal and interest in the Debt Service Fund and the Indenture Construction Account on any Transfer Date immediately prior to any Debt Service Payment Date, the Account Bank shall not transfer funds from the Lockbox Project Accounts pursuant to (a)-(d) above or as set forth in (a)-(d) below under the subsection "Revenue Account–Upon the First Revenue Service Commencement Date to Occur with Respect to the Project;" provided further if there are funds in the Revenue Account and the Borrower Construction Account on any Transfer Date immediately prior to any Debt Service Payment Date, then the Company may notify the Account Bank whether to apply funds without further instruction from the Borrower Construction Account as set forth in (a)-(d) above or from the Revenue Account as set forth in (a)-(d) below under the subsection "Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project," first for the purposes of the automatic payments set forth therein three Business Days prior to such Transfer Date, and if no such notice is given to the Account Bank, the Account Bank shall apply funds without further instruction from the Revenue Account as set forth in (a)-(d) below under the subsection "Revenue Account-Upon the First Revenue Service Commencement Date to Occur with Respect to the Project."

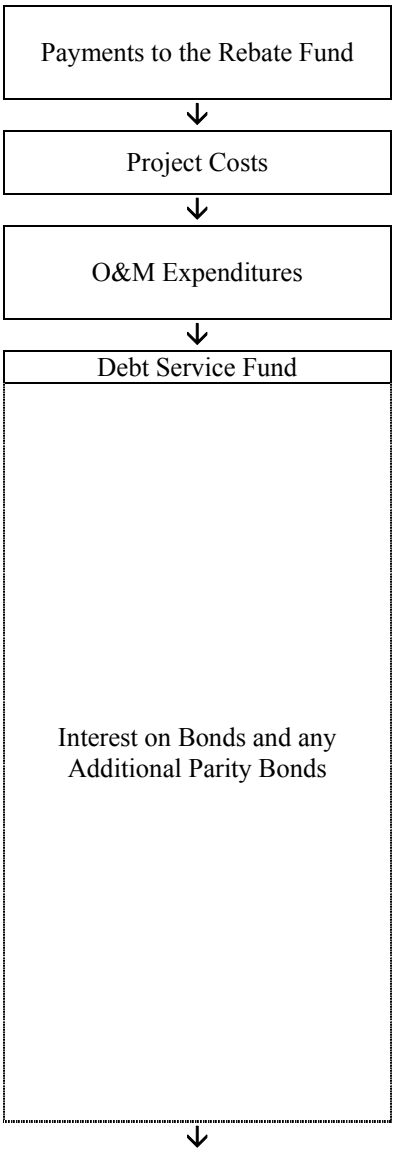
Transfer to the Revenue Account. Except as otherwise required by any applicable law, to the extent that on the Last Revenue Service Commencement Date, there are any funds remaining on deposit in the Indenture Construction Account or the Borrower Construction Account, including any sub-accounts thereof, such amounts will be deposited into the Revenue Account on such date by the Account Bank pursuant to written notice and instructions from the Company.

Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project

Pursuant to the Lockbox Account Agreement, all Project Revenues received after the first Revenue Service Commencement Date to occur with respect to the Project, and any Applicable Termination Amount received by the Company at any time (subject to the sections entitled "SECURITY FOR THE BONDS—Indenture—Use of Moneys Received from Exercise of Remedies," "Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default" and "Termination Proceeds" herein) are required to be deposited into the Revenue Account, and subject to the limitations set forth in this section, all amounts deposited into the Revenue Account will be applied each month on the Transfer Date as follows and in accordance with the Revenue Account Transfer Certificate delivered by the Company to the Account Bank as described above under subsection "Lockbox Project Accounts Under the Lockbox Account Agreement":



First, to the payment of fees, administrative costs and expenses due to the Trustee and the Account Bank under the Financing Documents, and to the payment of rating agency costs and to the payment of general overhead, to pay Reserved Rights to the Issuer, and other costs incurred by the Company in the ordinary course of business (but not including O&M Expenditures);

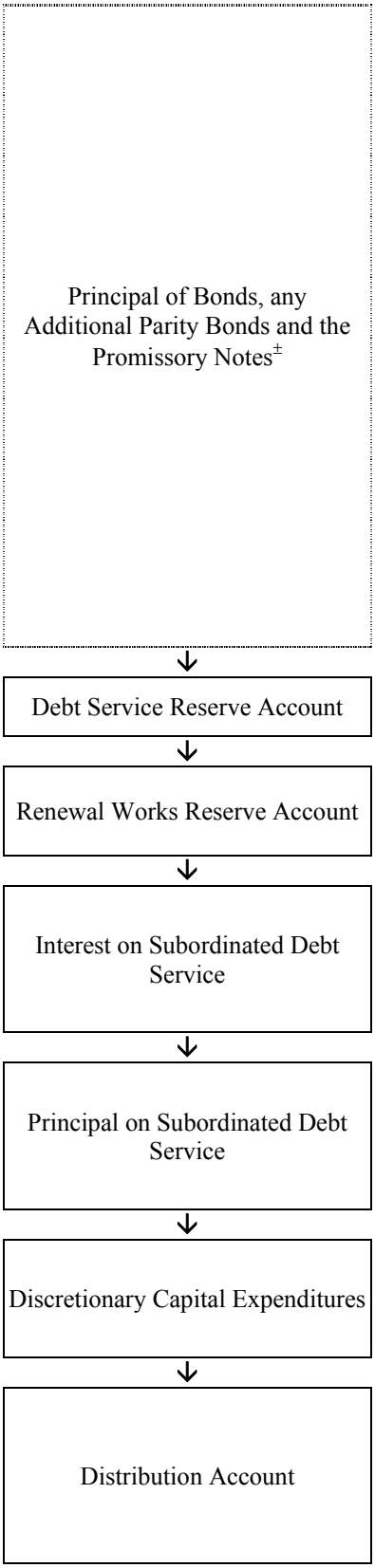


Second, to any payments then due and payable by the Company to the Rebate Fund or any similar rebate fund established with respect to any future tax-exempt Additional Parity Bonds;

Third, after application of any remaining available Equity Contributions and Construction Payments, if any, to the payment of Project Costs;

Fourth, to the Operating Account, an amount equal, together with amounts then on deposit therein, to the projected O&M Expenditures for one (1) month following the date of such transfer;

Fifth, to each Applicable Interest Sub-Account of the Revenue Account, (i) with respect to any Interest Payments on Outstanding Bonds that have an Interest Period of one month or less, the amount due on the next Interest Payment Date and any amount to become due before the next succeeding Transfer Date, taking into account amounts then on deposit in the Applicable Interest Sub-Account of the Revenue Account, and (ii) with respect to Interest Payments on Outstanding Bonds that have Interest Periods greater than one month, an amount equal to the Interest Payments due on the next Interest Payment Date divided by the number of months in such Interest Period; provided, however, the monthly deposit on the Transfer Date immediately before an Interest Payment Date shall equal the amount required, together with the amount then on deposit in the Applicable Interest Sub-Account of the Revenue Account, to pay the Interest Payment due on such Interest Payment Date; and provided further, however, that if the amount available on the applicable Transfer Date is not sufficient to make all of the deposits required by clauses (i) and (ii), such deposits shall be made pro rata, in the amounts obtained by multiplying the amount available for transfer on such Transfer Date by the fraction obtained by dividing (1) the amount scheduled to be deposited in accordance with clause (i) or (ii) in each Applicable Interest Sub-Account of the Revenue Account on such Transfer Date, as applicable, by (2) the total amount scheduled to be deposited to all of the Applicable Interest Sub-Accounts of the Revenue Account on such Transfer Date;



Sixth, (a) to each Applicable Principal Sub-Account of the Revenue Account, Principal Payments for Outstanding Bonds of each series, starting on the Transfer Date that is six months before the first Principal Payment Date for the Bonds of such series and on each Transfer Date falling on or before each Principal Payment Date, an amount equal to 1/6th of the amount of the Principal Payments due on such Principal Payment Date; provided, however, that the deposit on the Transfer Date occurring immediately before a Principal Payment Date shall equal the amount required, taking into account the amount then on deposit in the Applicable Principal Sub-Account, to pay the Principal Payment due on such Principal Payment Date; and (b) to pay the principal of the Promissory Notes±; provided, however, that if the amount available on the applicable Transfer Date is not sufficient to make all of the deposits required to be made on a Transfer Date, such deposits shall be made pro rata, in the amounts obtained by multiplying the amount available for transfer on such Transfer Date by the fraction obtained by dividing (A) the amount scheduled to be deposited in each Applicable Principal Sub-Account of the Revenue Account on such Transfer Date to pay principal on the Bonds or to pay the principal of the Promissory Notes±, by (B) the principal amount of the Promissory Notes± then outstanding plus the total amount scheduled to be deposited to all of the Applicable Principal Sub-Accounts of the Revenue Account on such Transfer Date to pay principal on the Bonds.

Seventh, to the Debt Service Reserve Account to fund any shortfall in the Debt Service Reserve Requirement;

Eighth, to the Renewal Works Reserve Account to fund any Renewal Works Deficiency, in the event that the O&M Contractor fails to provide the required Renewal Works Letter of Credit;

Ninth, if any Transfer Date is a Potential Distribution Date, to pay any interest on any Permitted Subordinated Debt (other than Sponsor subordinated debt), so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied;

Tenth, if any Transfer Date is a Potential Distribution Date, to pay scheduled principal on any Permitted Subordinated Debt (other than Sponsor subordinated debt), so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied;

Eleventh, if any Transfer Date is a Potential Distribution Date, to pay any optional capital expenditures, so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied; and

Twelfth, if any Transfer Date is a Potential Distribution Date, to the Distribution Account, unless the Company has otherwise instructed the Account Bank to retain all or a portion of the amount otherwise payable to the Distribution Account in the Revenue Account pursuant to the Revenue Account Transfer Certificate delivered to the Account Bank (with a copy to the Trustee).

± The Promissory Notes are expected to be paid from Construction Payments received by the Company during the Design Build Period.

Notwithstanding anything to the contrary set forth above or in the Lockbox Account Agreement, the Account Bank will agree (without further instruction) to transfer moneys on deposit in the Applicable Interest Sub-Account or Applicable Principal Sub-Account of the Revenue Account as follows:

(a) On any Transfer Date immediately prior to any Interest Payment Date, after making the transfers required by clauses first through fifth of the subsection "Flow of Funds—Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project," amounts on deposit in each Applicable Interest Sub-Account will be transferred to the Trustee and applied by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of interest on the Bonds on such Interest Payment Date, after taking into account the amounts then on deposit in the Interest Account of the Debt Service Fund (if any) for payment of interest on the Bonds;

(b) On any Transfer Date immediately prior to any Principal Payment Date, after making the transfers required by clauses first through sixth of the subsection "Flow of Funds—Revenue Account—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project," amounts on deposit in each Applicable Principal Sub-Account will be transferred to the Trustee and applied by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of principal on the Bonds on such Principal Payment Date, after taking into account the amounts then on deposit in the Principal Account of the Debt Service Fund (if any) for payment of the principal amount of the Bonds;

(c) If on any Transfer Date immediately prior to any Interest Payment Date, after giving effect to the transfers set forth in clause (a) above but before giving effect to the transfers set forth in clause (b) above, to the extent amounts on deposit in the Applicable Interest Sub-Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the interest due on the next Interest Payment Date, amounts on deposit first in the Borrower Construction Account, second in the Distribution Account, third in the Renewal Works Reserve Account, and fourth in the Applicable Principal Sub-Account will be transferred to the Trustee for deposit by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of interest on the Bonds on such Interest Payment Date; and

(d) If on any Transfer Date immediately prior to any Principal Payment Date, after giving effect to the transfers set forth in clauses (a) through (c) above, to the extent amounts on deposit in the Applicable Principal Sub- Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit first in the Borrower Construction Account, second in the Distribution Account and third in the Renewal Works Reserve Account, will be transferred to the Trustee for deposit by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of principal on the Bonds on such Principal Payment Date.

Additional Conditions and Requirements with Respect to Flow of Funds

Notwithstanding anything described above under subsection "Flow of Funds—Upon the First Revenue Service Commencement Date to Occur with Respect to the Project" to the contrary:

(a) commencing on January 1 of any Fiscal Year for which adequate funds to meet any RTD Appropriation Obligations have not been included in such Fiscal Year's RTD Adopted Budget (an "Appropriation Deficiency") and for so long as such funds are not so included in such annual budget or a subsequent annual budget of the District, the TABOR Portion received by the Company will be applied in the following order: first, to the payment of fees, administrative costs and other concessionaire expenses; second, to payments to the Rebate Fund; third, to pay Interest Payments for deposit into each Applicable Interest Sub-Account of the Revenue Account; fourth, to pay Principal Payments for deposit into each Applicable Principal Sub-Account of the Revenue Account and to pay principal of Promissory Notes; fifth, to the Operating Account (for the payment of demobilization costs

and other reasonable O&M Expenditures incurred in connection with such demobilization or suspension of work on the Project), and seventh through twelfth of the subsection "Flow of Funds" above; and

(b) if any Transfer Date is not a Potential Distribution Date, any amounts remaining after the applications of funds through eighth of the subsection "Flow of Funds" above will be retained in the Revenue Account.

The Trustee agrees to notify the Account Bank on or by January 1 of each Fiscal Year if an Appropriation Deficiency has occurred. On or before the Revenue Service Commencement Date for the East Corridor Service, the Company will provide to the Account Bank (with a copy to the Trustee) a schedule (the "TABOR Schedule") setting forth the TABOR Portion applicable each month for the purposes of making the calculations required above, and thereafter shall promptly provide to the Account Bank an updated TABOR Schedule in the event of any change to the TABOR Portion applicable each month.

PROJECT PARTICIPANTS

Regional Transportation District

The District was created in 1969 by the State General Assembly as a mass transportation planning agency for the Denver metropolitan area. The District is a public body politic and corporate and a political subdivision of the State, organized and existing under the terms of the Act. In 1974, the Act was amended, and the District became an operating entity charged with the responsibility for developing, maintaining and operating a mass transportation system for the benefit of the inhabitants in its service area. The District's service area encompasses portions of an eight-county region comprising the Denver metropolitan area. Over one-half of the population of the State currently resides in the Denver metropolitan area. The District's outstanding indebtedness is currently rated as follows (in each case, by Moody's; Standard & Poor's; and Fitch, respectively): 0.6% Senior Debt: Aa2/AAA/AA+; FasTracks Bonds: Aa2/AA+/AA; and Certificates of Participation: Aa3/A+/AA-. For additional information regarding the District, see APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT."

Company

The Company is a Delaware limited liability company that was formed on April 26, 2010 for the purpose of undertaking the Project which, among other things, includes entering into the Concession Agreement. DTH is the direct holder of 100% of the outstanding membership interests of the Company. Fluor is the holder of 10% of the outstanding membership interests of DTH and Macquarie is the indirect holder of 90% of the outstanding membership interests of DTH; *provided* that the purchase of Macquarie's outstanding membership interest in DTH is subject to the arrangements described under "FINANCING FOR THE PROJECT—Equity."

Equity Participants

The following summaries of the Equity Participants are included solely to provide any potential investor in the Bonds with additional background regarding the source of the equity contributions discussed in this Official Statement and contemplated in the Equity Contribution Agreement. Potential investors in the Bonds should note that, as described elsewhere in this Official Statement, the Bonds are payable from payments received from the Company under the Loan Agreement and the Company's obligations thereunder are non recourse obligations of the District and in no event will all or any of the Equity Participants have any obligation with respect to any payment related to the Bonds (except as relating to the equity contributions solely to the extent described herein and contemplated in the Equity Contribution Agreement). The obligation of each Equity Participant to contribute equity to the Company under the Equity Contribution Agreement will be secured by Equity Letters of Credit. See "FINANCING FOR THE PROJECT—Equity."

Fluor

Overview. Fluor is a subsidiary of Fluor Corporation that is one of the world's largest engineering and construction services companies. Fluor Corporation employs approximately 36,000 people located in 30 countries across six continents. Fluor Corporation has executed more than $40 billion of design-build projects over the past ten years, including the $1.4 billion high-speed rail line in the Netherlands and the $441 million Exposition Light Rail Transit Project in Los Angeles.

Fluor Corporation (NYSE: FLR) reported $21.9 billion in revenue in 2009 and EBITDA of $1.3 billion. Fluor Corporation had a market cap of $8.0 billion; total assets of $7.1 billion; total equity of $3.3 billion; and total debt of $128 million as of December 31, 2009. Fluor Corporation's current credit ratings are A- from S&P; A3 from Moody's; and A- from Fitch.

Transportation Infrastructure Experience. Fluor Corporation's history of engineering and constructing transportation projects includes both design-build and design-build-finance-operate-maintain projects. The following highlighted projects show where subsidiaries of Fluor Corporation acted as, or still are, a concession partner or managing partner.

• THE HIGH SPEED LINE – ZUID. This project is located in the Netherlands. It is a 62-mile rail infrastructure project with a capital cost of $1.43 billion for the superstructure and all systems (the government finances the substructure). A subsidiary of Fluor Corporation led a special-purpose vehicle (InfraSpeed) to design, build, finance and maintain the project with InfraSpeed providing $90 million in equity and the remainder raised by subordinated debt. Construction was completed in 2006. InfraSpeed has a 25-year management and maintenance obligation in which InfraSpeed guarantees 99.46% availability of the line.

• I-495 CAPITOL BELTWAY HOT LANES. This project is located in Fairfax County, Virginia, and is a 14-mile widening of the Capitol Beltway, the freeway serving the Washington, D.C. area. It was named the 2008 Transport Deal of the Year by Infrastructure Journal. The mainline configuration will consist of four general purpose lanes and two high occupancy toll (HOT) lanes in each direction. Fluor is a joint venture partner in the Capital Beltway Express LLC, as well as the managing partner of the design-build contract. The $1.94 billion design-build contract broke ground in 2008 and is expected to be completed in 2013. Partially funded by private equity, the total length of the concession is 85 years, including 5 years for construction.

• THE A8 AUTOBAHN IMPROVEMENTS. This project will widen 23 miles of the A8 between Augsburg and Munich, expanding its present configuration from 2x2 lanes without emergency lanes to 2x3 lanes plus emergency lanes. A subsidiary of Fluor Corporation has a 25 percent share in the consortium and a 25 percent share in the construction joint venture. The value of the construction activities is approximately €240 million. Construction completion is scheduled for December 2010.

• A59 FREEWAY UPGRADE. A subsidiary of Fluor Corporation was the lead company in the Poort van Den Bosch consortium, selected by the Dutch government to design and build, as well as finance, the upgrade of the N50 state highway into the A59 Freeway. The A59 Freeway, a 9-kilometer route near the city of Den Bosch, consists of dual lanes in each direction.

Fluor has also been involved in various capacities in the projects detailed in the table below:

Project/Client	**Description/Role**
E-470	Design-builder, contractor and sponsor of $323 million project for roadway, bridges, toll facilities, and maintenance facilities in Colorado. First privately-financed design-build toll highway facility in the United States to reach construction.
Exposition Light Rail Transit Project	Design-build partner for $410 million project for scheduling, controls, quality assurance and quality control, document control, and integration management of systems and civil works integration.
Bay Bridge	Design-build partner for joint venture with American Bridge in constructing the $1.43 billion, 625-meter long East Span of the Bay Bridge.
Project Management Oversight Program (PMOP) for the FTA	Oversight of $3.6 billion procurement program for new generation of 1,080 rail cars for New York City Transit Authority from development of specifications through car acceptance and start-up operations.
Oregon Bridge Delivery Program	Program and construction management for $1.3 billion state-wide bridge replacement project encompassing approximately 400 bridges.

Macquarie Group Limited

Overview. Macquarie Group Limited ("Macquarie Group") (ASX: MQG) is a global provider of banking, financial advisory, investment and fund management services in major international financial centers. Macquarie Group Limited has an established global track record as a responsible manager of essential social infrastructure, with more than 100 million people worldwide every day using essential services provided by the group. Founded in 1969, Macquarie Group employs more than 14,600 people in approximately 70 office locations in 28 countries. Macquarie Group's long term ratings and outlooks are A-/Stable (S&P's) and A2/Negative (Moody's) and A/Stable (Fitch).

Macquarie Group Limited has worked on high-profile infrastructure transactions in various capacities, including as owner (through its managed funds), developer and financial advisor. In 2009, Macquarie Group raised $US58 billion for its clients and advised on $US100 billion of mergers and acquisition activity.

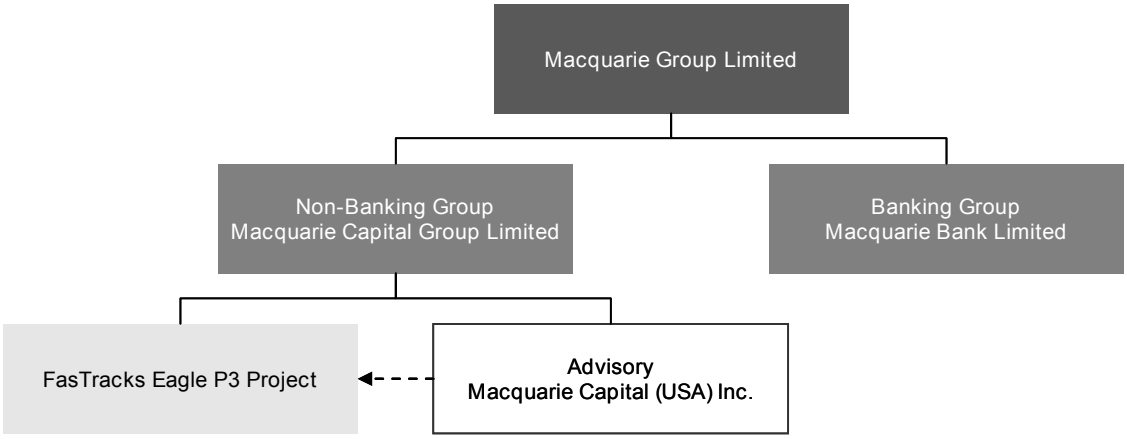
As an owner and manager of important community assets, Macquarie Group Limited works closely with governments around the world to deliver vital services, including transport, roads, airports, utilities, hospitals, schools and secure facilities. Macquarie Capital Group Limited ("Macquarie Capital") is a wholly-owned subsidiary of Macquarie Group.

Macquarie Capital (USA) Inc. Macquarie Capital (USA) Inc. ("MACCAP USA") is a wholly owned subsidiary of Macquarie Capital and represents Macquarie Capital in the United States. MACCAP USA is assisting the Company with the required financial advisory and debt-arranging services, as well as representing Macquarie Capital in its role as an equity participant for the Project.

MACCAP USA has been actively involved in the US market since 1994. During this period, MACCAP USA has established one of the largest financial advisory and funds management teams dedicated to the US infrastructure sector with over 100 advisory team members sourcing, evaluating and executing infrastructure and utilities opportunities in North America.

MACCAP USA can also draw on the worldwide resources and expertise of the larger Macquarie Group Limited, and can bring in resources from Toronto, London and Sydney as required to assist on the Project, and will draw on expertise from its sister company, Macquarie Capital Markets Canada Ltd. ("MACCAP Canada").

The following chart reflects the relationship between Macquarie Group and various affiliated entities.



Transportation Infrastructure Experience. MACCAP USA and MACCAP Canada have also been appointed by governments to act as their financial and process consultants on transportation projects, providing strong insight into the needs of public sector agencies and contributing to a successful partnership. In particular, Macquarie Capital also acted as financial advisor on the two largest availability payment concessions in the United States, the Port of Miami Tunnel Project and the I-595 Corridor Roadway Improvement Project.

Macquarie Group's experience spans the full rail sector, including:

- THE BRISBANE AIRTRAIN RAIL LINK PROJECT. This project is a link between the Brisbane Airport and the Queensland Rail Network. Macquarie Group served as the Concessionaire Managing Partner and Financial Advisor for this project.

- THE ARLANDA EXPRESS. This project is a 29.4-mile rail linking the airport to Stockholm, Sweden. A Macquarie Group-managed fund, Macquarie European Infrastructure Fund (MEIF), currently owns and operates rail line.

- THE SEOUL SUBWAY LINE 9 SECTION 1. This project is a 25.5 km subway line running east-west along the south side of the Han River in Seoul, South Korea linking six major business districts. Macquarie Group has approximately 25% of the equity interest and 50% of the subordinated loan. Macquarie Group is serving as a Concessionaire Partner and the Financial Advisor.

John Laing

Overview. John Laing Investments Ltd. ("John Laing") is a wholly-owned subsidiary of John Laing plc. John Laing is a specialist owner, operator and manager of public sector infrastructure assets in the United Kingdom and internationally. By combining its skills in the management of development risk, project financing, asset management and operations with those of their chosen partners and the project supply chain, John Laing has built a strong reputation as a market leader in the privately financed form of infrastructure renewal and modernization, long recognized as a key element of public sector procurement policy. Headquartered in London, and with offices in Singapore, India, the Netherlands and Canada, John Laing plc manages the delivery of projects worldwide, including in Australia, Europe, India and Canada.

In the 2009 fiscal year, John Laing plc recorded £871.6 million of revenue. John Laing plc has £1,884.7 million of assets, £1,210.7 million of debt (made up of interest bearing loans and borrowings and derivative financial instruments), and £327.8 million of equity.

Experience. John Laing plc currently has a total of 69 PPP investments in its portfolio (with a further five projects at the preferred bidder stage), in three main sectors: transportation, accommodation (social infrastructure), and environment and utilities.

John Laing has had a successful track record in the delivery of infrastructure projects. John Laing has been actively involved in the rail sector in particular since the mid 1990s. The team can draw on a wealth of experience on projects that John Laing has had involvement with over the years, including:

- Funding and delivery of infrastructure enhancements (track and stations) for Chiltern Railways;

- Construction and operation of two further light rail projects in the UK (Manchester Metro (Phase 2) and Midland Metro (Line 1)); and

- Development, funding and delivery of new stations on the UK rail network.

More recently, the John Laing team has been working on the prestigious Intercity Express Programme for the UK Department for Transport, for which the Agility Trains consortium was announced preferred bidder in February 2009.

Some of John Laing's recent notable achievements in transportation projects include:

- THE A1 MOTORWAY IN POLAND. Comprising of two phases, John Laing achieved financial close for this €1.66 billion project in 2005 for Phase 1 and 2008 for Phase 2. John Laing partnered with Skanska Infrastructure Development, NDI Autostrada and Intertoll in the development of 90 km of new road from Gdansk to Nowe Marzy in northern Poland (Phase 1) and a 60 km extension to the city of Torun (Phase 2).

• THE M6 MOTORWAY IN HUNGARY. John Laing achieved financial close for this €1 billion project in 2007. John Laing partnered with Intertoll, Strabag, Colas and Bouygues to develop a 78.2-km highway expansion project in southern Hungary that includes four tunnels and several viaducts, as well as a maintenance contract for the life of the concession, which is 30 years.

• THE A1 MOTORWAY IN GERMANY. John Laing achieved financial close for The A1 Motorway in Germany: John Laing achieved financial close for this €650 million project in July 2008. John Laing partnered with Bilfinger Berger and local contractor Johann Bunte to develop this 72-km motorway widening project (from 4 to 6 lanes) in the north of Germany between the major cities of Hamburg and Bremen. The concession period is 30 years, including a construction period of 4 years.

The table below includes a selection of John Laing's project experience:

Project/Location	**Description/Role**
Barnsley – Building Schools for the Future (UK)	Construction and maintenance of secondary schools in the Barnsley area.
Greenwich Rail Link plc (UK)	4.2 km extension of Docklands Light railway in East London, includes two river tunnels and extensive viaducts.
Corsham (UK)	New accommodation for the Defense Communications Services Agency.
Forth Valley Hospital (UK)	New 860-bed hospital in Scotland. The hospital will centralize acute healthcare services along with the mental health services.
Greater Manchester Waste (UK)	Provision of new waste handling and recycling facilities.
Ministry of Defense Main Building (UK)	A contract to modernize and rationalize the Ministry of Defense's Whitehall Headquarters and the Old War Office.
Newcastle Hospitals (UK)	Transfer of all of the acute healthcare services from the Newcastle General Hospital to modern, state-of-the-art facilities at the Royal Victoria Infirmary and the Freeman Hospital.
North Staffordshire Hospital (UK)	A new acute hospital on the University of North Staffordshire's City General site and a new community hospital at Haywood.
Pembury Hospital (UK)	Construction of new 65,000 sq meter acute hospital and services for 30 years.
Second Severn Crossing (UK)	Construction of new 5.2 km long motorway bridge together with maintenance of new and existing bridge for 30 years.
A1 Motorway (Germany)	30-year contract to widen and maintain A1 motorway (part of the A-Modell pilot schemes).
A1 Motorway (Poland)	This project comprises two phases, the first being 90 km of new road from Gdansk to Nowe Marzy in Northern Poland. Phase 2 consists of a 60 km extension to the city of Torun at the southern end of the motorway.
E18 Motorway (Finland)	New motorway comprising seven road tunnels (aggregate length 5.1 km) through bored-through rock. Including 21-year maintenance.
Kromhout Barracks, Phases 1 and 2 (Netherlands)	The provision of new accommodation facilities for 2,000 to 3,000 defense employees at the existing site together with Facilities Maintenance for 25 years.
M6 Motorway (Hungary)	78.2 km highway project including four tunnels and several viaducts together with maintenance for 30 years.
NH3 Road (India)	Construction of the 96.5 km four-lane highway from Maharashtra-Madhya Pradesh Border.
Kelowna & Vernon Hospitals (Canada)	The construction, finance and maintenance of the Kelowna and Vernon Hospitals project for a 30-year period.
Intercity Express Programme, Preferred Bidder (UK)	Provision of new rolling stock and maintenance facilities for UK train-operating companies.

Uberior

Overview. Uberior Infrastructure Investments (No 4) USA LLC is an Affiliate of Uberior Infrastructure Investments (No. 4) Limited, which is a wholly owned subsidiary of Bank of Scotland plc and, in turn, HBOS plc. Following the purchase of HBOS plc by Lloyds TSB plc in January 2009, the ultimate parent company is Lloyds Banking Group plc ("LBG").

Uberior Infrastructure Investments (No. 4) Limited, as a subsidiary of LBG, provides risk capital investments in essential economic and social infrastructure projects via government and similar projects in the UK and Europe. Active across a wide range of sectors, including health, housing, education, transport and defense, Uberior Infrastructure Investments (No. 4) Limited has contributed to numerous groundbreaking and award-winning developments.

Uberior Infrastructure Investments (No. 4) Limited has a large and most experienced team with professionals based across London, Madrid and Paris. Over the course of the last 12 years has committed over £500m in equity in over 75 infrastructure investments. Deal sizes have ranged from £10m to £2.7bn and investments have been in social and economic infrastructure projects mainly located in the UK.

In addition to Uberior Infrastructure Investments (No. 4) Limited's credentials as a financial investor, LBG is an arranger and provider of senior debt to transportation projects.

Transportation/Infrastructure Experience. Some of LBG and Uberior Infrastructure Investments (No. 4) Limited's recent and notable transactions include:

- BIRMINGHAM HIGHWAYS MAINTENANCE IN THE UNITED KINGDOM. LBG is an equity investor and senior funder to this recently closed project. The £2.7 billion project is for the maintenance of 2,500km of road network, nearly 100,000 street lights, and over 850 highway structures and bridges across the city. LBG is a 50% shareholder in the project company for this 25 year concession which reached financial close in 2010.

- SOUTHMEAD HOSPITAL IN THE UNITED KINGDOM. LBG is an equity investor and senior funder to this recently closed project. The £663 million project is for the design, build, finance, maintenance and operation of a new 832 bed acute hospital with 24 theatre suites for the North Bristol Trust. The concession period under the Project Agreement is 35.6 years.

- AUTOROUTE DE LIAISON SEINE SARTHE ("ALIS") IN FRANCE. LBG, through the heritage Bank of Scotland Infrastructure team, is an equity investor and senior funder on this project to design, build, finance and operate a 125km toll motorway between Rouen and Alençon in Normandy, France. The €500 million project has a development and construction phase of 4 years with a concession period of 62 years thereafter. The motorway officially opened on October 27, 2005.

- TYNE TUNNEL 2 IN THE UNITED KINGDOM. LBG, through the heritage Bank of Scotland Infrastructure team, is an equity investor and senior funder on this £391 million project to design, build, finance and operate a new vehicle tunnel crossing under the river Tyne and to refurbish, operate and maintain the adjacent and existing 40 year old vehicle tunnel. This includes maintenance of the existing vehicle and pedestrian tunnels. The project has a construction phase of 3.5 years and a concession period of 30 years. The project reached financial close in November 2007.

Design Build Contractor

The Company has contracted with Denver Transit Systems, LLC to design and construct the Project. Denver Transit Systems, LLC is a 50/50 joint venture between Fluor and Balfour Beatty Rail Inc. (BBRI), for which Fluor will act as the managing partner. For additional information, see "PRINCIPAL PROJECT AGREEMENTS—Design Build Contract" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT."

Fluor. Information about Fluor's transportation experience and its financial capability is described above under "PROJECT PARTICIPANTS—Equity Participants—Fluor."

BBRI. BBRI is the U.S.-based rail engineering, construction, and maintenance services subsidiary of Balfour Beatty, plc. Founded in 1909, Balfour Beatty, plc is a global engineering, construction, services and investment organization headquartered in London, England specializing in large infrastructure and building programs. Named one of "Britain's Most Admired Companies" for 2008 by Management Today, Balfour Beatty plc was founded in 1909 and is publicly traded on the London Stock Exchange (BBY.L).

Based in Atlanta, Georgia, BBRI is a national leader in track work and transit systems. In addition to its work on the Project, BBRI was selected in September 2008 to provide "On-Call Services" for the District's existing light rail network. The scope of services in the contract includes communications, signal, overhead catenary, traction power substations, fare collection and system-wide electrical elements. BBRI has also played a significant role in the various projects detailed in the table below:

Project/Client	**Description/Role**
METRO Gold Line East Side Extension	Systems Provider for $92 million extension of the Metro Gold Line in Los Angeles, CA from Union Station to Pomona and Atlantic BBRI will design, provide, install and test all system components; including signaling, communications, traction power, and the overhead catenary system
Harbin Dalian Project (China)	Systems Provider for $154 million, supplying key traction electrification equipment on the 590-mile railway line
Northeast Corridor Electrification Project	Systems Provider for $485 million, electrification of 360 line track miles, 322 main track miles, 12 miles of sidings, and 26 miles of yard track
Burlingame Station Outboard Platform Improvements	Systems Provider as part of a joint venture, BBRI is responsible for upgrades to the signal and communication systems and track rehabilitation at Burlingame Station (Burlingame, CA), as well as track rehab at Broadway station

Design Build Guarantor

Denver Transit Systems, LLC will provide a parent company guaranty in favor of the Company from Fluor Corporation and Balfour Beatty, LLC (collectively, the "Design Build Guarantors"), guaranteeing all of its obligations to the Company under the Design Build Contract. The obligations of the Design Build Guarantors shall be joint and several. In addition, Balfour Beatty plc will provide a payment guaranty.

O&M Contractor

The Company has contracted with Denver Transit Operators, LLC to provide commuter rail network operations and maintenance for the Project for the term of the Concession Agreement. Alternate Concepts, Inc., BBRI and Fluor are the members of Denver Transit Operators, LLC and will provide the rail network operations and maintenance for the Project.

ACI. Alternate Concepts, Inc. ("ACI") was established in 1989 and is a full-service transportation firm with extensive rail transit experience. ACI is a partner in, and the General Manager for, the company that operates and maintains the Boston-area commuter rail service on behalf of the Massachusetts Bay Transportation Authority ("MBTA"). The MBTA commuter rail system is the largest privately operated rail transit system in the U.S., carrying an average of 140,000 passengers daily. ACI is also the operations and maintenance partner in the design-build-operate-maintain consortium responsible for the Tren Urbano rail transit system in San Juan, Puerto Rico. Tren Urbano was the first FTA sponsored DBOM project and currently carries approximately 40,000 passengers daily.

Among the significant transit projects on which ACI has been actively engaged are the following:

Project/Client	Description/Role
MBTA Commuter Rail Services (Massachusetts, USA)	O&M Provider for 125 commuter rail stations, 637.5 miles of right-of-way and track, 377 passenger coaches and 80 locomotives
Tren Urbano (Puerto Rico, USA)	O&M Provider for dispatching and operating the trains, and maintaining and cleaning all vehicles and fixing systems
Greenbush Line (Massachusetts, USA)	Partner in consortium: Design build of an 18-mile commuter rail extension ACI worked closely with BBRI on the design, installation and testing of the systems
Valley Metro Rail Inc. (Arizona, USA)	O&M Provider for 20-mile light rail system will have 28 stations. Provide all operations and central control services, with expected ridership of 26,000 in first year of operation

BBRI. BBRI provides asset management services for both freight rail and rail transit throughout the U.S. and worldwide through its parent company, Balfour Beatty, plc. BBRI provides its maintenance services using in-house personnel and equipment as well as specialized management software and analytical tools. As a vertically integrated company, Balfour Beatty, plc and its affiliates, often provide total-life-cycle engineering, construction, and maintenance services. BBRI is presently responsible for maintenance of the right-of-way, track, and systems for the $2.5 billion Alameda Corridor in Los Angeles. Additional information about BBRI's rail project experience is described above under "PROJECT PARTICIPANTS—Design Build Contractor—BBRI."

Fluor. Fluor is a member of the O&M Contractor, providing financial support, as well as an effective transition from the design-build phase of the Project to the operations and maintenance phased of the Project. Information about Fluor's transportation experience and its financial capability is described above under "PROJECT PARTICIPANTS—Equity Participants—Fluor."

O&M Guarantor

Denver Transit Systems, LLC will provide a parent company guaranty in favor of the Company from Fluor Corporation and Balfour Beatty, LLC (collectively, the "Design Build Guarantors') guaranteeing all of its obligations to the Company under the O&M Contract. The obligations of the Design Build Guarantors shall be joint and several. In addition, Balfour Beatty plc will provide a payment guaranty.

Balfour Beatty plc

Balfour Beatty plc is headquartered in London, UK and works on major infrastructure assets across their whole lifecycle: from conception, funding, programme management and design to construction, systems integration, operation and maintenance.

Balfour Beatty plc's contracting business is a leader across a wide range of construction and related disciplines in the UK and in selected overseas markets. Balfour Beatty plc has maintained long term relationships with a wide range of blue-chip customers and is highly cash generative. Balfour Beatty's construction services provides building, design, construction management, refurbishment and fit-out services. As an infrastructure investor, Balfour Beatty plc operates a portfolio of long-term concessions in the UK, and long-term military accommodation concessions in the US.

Balfour Beatty's global presence in rail maintenance in contracts is larger in Europe than it currently is in North America. In the UK, Balfour Beatty (as Balfour Beatty Rail UK) is one of the largest providers of maintenance and renewal to Network Rail, the owner of the UK railway infrastructure system.

In 2009, Balfour Beatty's order book was £14.1bn, revenue including joint ventures and associates was £10.3bn, and pre-tax profit was £267m.

Balfour Beatty LLC is a wholly-owned direct subsidiary of Balfour Beatty plc.

Hyundai-Rotem

Hyundai-Rotem, USA ("Rotem USA"), is headquartered in Philadelphia, Pennsylvania, and is the American subsidiary of Rotem Co. ("Rotem"), a division of the Hyundai Motor Group. Rotem was formed when Hyundai took over the rolling stock manufacturing capabilities of Daewoo, making it the sole rolling stock manufacturer in South Korea.

Rotem's main manufacturing facility is located in Busan, South Korea with design offices in Seoul. Rotem has a global staff of approximately 3,800, including 700 devoted solely to research and development.

Rotem specializes in the manufacture of light rail vehicles, electric multiple units, diesel multiple units, high-speed trains, and magnetically levitated vehicles. Hyundai-Rotem in the USA has a manufacturing space of 11.5 acres in Philadelphia, Pennsylvania. The facility was first opened to manufacture Silverline V Passenger EMU rail cars for the Southeastern Pennsylvania Transportation Authority ("SEPTA").

Relevant Projects. Rotem has provided or will be providing EMU rolling stock for the following transit systems:

- SEPTA - 120 Silverliner V rail cars, Pennsylvania, USA
- Seoul Metro Line 9 – 96 rail cars, Seoul, South Korea
- Incheon International Airport – 36 rail cars, Seoul, South Korea
- Brazil Central – 80 rail cars, Rio de Janerio, Brazil
- Sao Paulo Metro Line 4 – 84 rail cars, Sao Paulo, Brazil
- Canada line EMU Project, 40 rail cars, Vancouver, British Columbia, Canada

RISK FACTORS

THE PURCHASE OF THE SERIES 2010 BONDS IS SUBJECT TO CERTAIN RISKS. EACH PROSPECTIVE INVESTOR IN THE SERIES 2010 BONDS IS ENCOURAGED TO READ THIS OFFICIAL STATEMENT IN ITS ENTIRETY, INCLUDING ALL APPENDICES HERETO. PARTICULAR ATTENTION SHOULD BE GIVEN TO THE FACTORS DESCRIBED BELOW, WHICH, AMONG OTHERS, COULD AFFECT THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE SERIES 2010 BONDS AND WHICH COULD ALSO AFFECT THE MARKET PRICE OF THE SERIES 2010 BONDS TO AN EXTENT THAT CANNOT BE DETERMINED.

The following discussion is not meant to be an exhaustive list of the risks and other factors that should be considered in connection with the purchase of the Series 2010 Bonds and does not necessarily reflect the relative importance of the various risks and other factors. Any one or more the risks discussed, and others, could adversely affect the Company and/or the District and could lead to substantial decreases in the market value and/or the liquidity of the Series 2010 Bonds. There can be no assurance that other risk factors will not become material in the future.

Series 2010 Bonds are Special, Limited Obligations

The Series 2010 Bonds are special, limited obligations of the Issuer payable solely from payments received from the Company pursuant to the Loan Agreement. The only source of payment of the Series 2010 Bonds is the Trust Estate, including revenues provided by the Company to the Issuer pursuant to the Loan Agreement. The Series 2010 Bonds will not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State.

Company is a Single Purpose Entity

The Company was formed for the purpose of entering into the Concession Agreement and has no assets other than the Equity Contributions and the Company's rights under the Material Project Contracts, including the Company's rights under the Concession Agreement to receive the Construction Payments and the Service Payments. Substantially all of the Company's responsibilities in connection with the Project are being passed through to the Design Build Contractor and to the O&M Contractor, and substantially all of the Company's rights under the Concession Agreement and the other Material Project Contracts are being pledged and assigned as security for the Company's obligations in connection with the Project. No assurance can be given, however, that the funds available to the Trustee will be sufficient to make all of the payments to be paid from the Trust Estate, including payments to be made of principal of and interest on the Bonds.

Sales Tax Considerations

A primary source of funding for the District to make Service Payments and Termination Payments under the Concession Agreement (and thus for the Company to pay operating expenses, Project construction costs and debt service on the Bonds) will be derived from the RTD Sales Tax Revenues. Service Payments, for example, consist of (a) the TABOR Portion and, following delivery of an Additional TABOR Portion Notice, the Additional TABOR Portion and (b) the RTD Appropriation Obligations, and the District's ability to pay these obligations will depend in large part upon the amount of RTD Sales Tax Revenues available in each year. The amount of RTD Sales Tax Revenues available for these payments will depend in part upon factors, such as economic conditions and political events that could affect the RTD Sales Tax Revenues but that are not within the District's or the Company's control. No assurance can be given that the District will always have sufficient RTD Sales Tax Revenues (or other revenues) to pay all of its obligations secured by RTD Sales Tax Revenues, including its obligations under the Concession Agreement.

Economic Conditions. As noted in APPENDIX A—"The Regional Transportation District," collections of RTD Sales Tax Revenues are subject to the elastic nature of consumer spending and vary, sometimes substantially, with the level of retail activity in the District's service area. Sales Tax receipts may increase as prices and inflation increase but decrease during adverse economic conditions and reduced consumer confidence and spending.

Although Colorado employment rates and personal income levels generally exceeded those experienced on a national basis during the current downturn, retail sales in Colorado and in the Denver metropolitan area have experienced a significant decrease from pre-recession years. In 2009, for example, RTD Sales Tax Revenues decreased by approximately 10% as compared to RTD Sales Tax Revenues in 2008. This decrease also reflects the suspension, instituted by the State in October 2009 of the right of vendors to withhold a 3 and 1/3% charge to cover administrative costs. (This suspension is currently scheduled to expire June 30, 2011.) See "DISTRICT SALES TAX" and "DEBT STRUCTURE OF DISTRICT" in APPENDIX A and "PAYMENTS UNDER THE CONCESSION AGREEMENT."

RTD Sales Tax Revenues constituted more than 65 percent of the District's total revenues (excluding federal capital grant revenues) in each of the last three fiscal years, and significant decreases in the amount of available RTD Sales Tax Revenues in any year could have an adverse effect not only on the amount of revenues available to pay the TABOR Portions and any Additional TABOR Portion but also on the District's ability to have sufficient funds to pay RTD Appropriation Obligations, including the component of the Service Payments that constitutes an RTD Appropriation Obligation, and in turn on the Company's ability to make the payments required under the Loan Agreement to pay debt service on the Series 2010 Bonds.

District Sales Tax is Subject to Change by the General Assembly and by the Voters. The District is an entity created by Colorado statute, and its powers are susceptible to changes in statutes enacted by the General Assembly or initiated by the voters. In particular, because the State General Assembly requires the sales tax imposed by the District to be imposed upon the same transactions or incidents upon which the State imposes a sales tax, with certain exceptions the District is not able to prevent the State from enacting exemptions that would diminish the District's sales tax base. Although in 1983 the General Assembly increased the District's sales tax rate when it enacted new sales tax exemptions and on other occasions has created for the District exceptions to new tax exemptions, the General Assembly also has created tax exemptions that do reduce the District's sales tax base. No assurance can be given that the General Assembly (or the voters) will protect, and not reduce, the District's sales tax base in the future. See "PROPOSED COLORADO FISCAL INITIATIVES" in APPENDIX A and "—Political Risk and Community Risk" below. Future sales tax exemptions or limitations could have a material and adverse impact on the District's ability to make the Service Payments and other payments under the Concession Agreement.

The TABOR Portions are Subject to the Claim of the District's Senior Debt; Potential Acceleration of 0.6% Debt. The District's obligation to pay the TABOR Portion and any Additional TABOR Portion of the Service Payment is secured by a pledge of the District's 0. 4% Sales Tax Revenues available after payment of the FasTracks Bonds and by a pledge of the District's 0.6% Sales Tax Revenues after payment of the 0.6% Senior Debt, Senior Financial Products Agreements, Senior Credit Facility Obligations and the FasTracks Bonds. As described under "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion—Additional Sales Tax Indebtedness Permitted under the Concession Agreement" and in APPENDIX C—"Summary of Certain Provisions of the Concession Agreement," the District may issue additional 0.6% Senior Debt to refund outstanding 0.6% Senior Debt and may enter into Senior Financial Products and Senior Credit Facility Obligations in connection with 0.6% Senior Debt.

Although the District's obligations under the FasTracks Bonds and to pay the TABOR Portions of the Service Payments are not subject to acceleration, the District's obligations under the 0.6% Debt and under the Senior Financial Products and Senior Credit Facility Obligations may be accelerated and significant amounts could become payable earlier than scheduled following a default or following the occurrence of certain other events, not all of which are within the District's control. Depending upon market conditions, for example, the District could be required to make large termination payments under its existing Senior Financial Products at the time the Senior Financial Products expire or if they are terminated early. Separately, in the event the Senior Debt Trustee declares the principal of the 0.6% Senior Bonds to be due and payable, all principal and accrued interest on the outstanding 0.6% Senior Bonds would have to be paid in full before any of the 0.6% Sales Tax Revenues would be available as a source of Sales Tax Revenue to pay any of the TABOR Portion. See "DEBT STRUCTURE OF THE DISTRICT" in APPENDIX A and "PAYMENTS UNDER THE CONCESSION AGREEMENT FOR THE BONDS—TABOR Portion."

The District may issue additional FasTracks Bonds, but only if the District demonstrates compliance with the "Additional Bonds Test" set forth in the Concession Agreement. The District may enter into new swaps and

other new Senior Financial Products Agreements, but only if the District's obligation to make termination payments thereunder is subordinated to the District's obligations under the Concession Agreement. No assurance can be given, however, that even with these restrictions, available Sales Tax Revenues will always be sufficient to enable the District to make the payments required under the Concession Agreement. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion—Additional Sales Tax Indebtedness Permitted Under the Concession Agreement."

RTD Appropriation Obligations

Under the Concession Agreement, all required Service Payments that are not TABOR Portions or Additional TABOR Portions constitute RTD Appropriation Obligations, and all Construction Payments, Termination Payments and any portion of the TABOR Portion or Additional TABOR Portion that remains unpaid when due also constitute RTD Appropriation Obligations. The District's obligation to pay RTD Appropriation Obligations is subject to appropriation by the District of moneys for the purposes of the Concession Agreement. No RTD Appropriation Obligation that requires funding in any Fiscal Year is legally enforceable against the District without an appropriation for the relevant amount of funding in such Fiscal Year.

If the District does not appropriate its RTD Appropriation Obligation by the beginning of a fiscal year, the Company may suspend service, but such an event of non-appropriation in connection with an RTD Appropriation Obligation would not constitute an RTD Termination Event unless and until the non-appropriation continues until the end of the District's fiscal year, at which time the Company would be entitled to terminate the Concession Agreement and to collect an RTD Default Amount for termination. Should the District not appropriate funds to pay the RTD Default Amount, however, the Company, and thus the Trustee, would not receive a lump sum payment but would have to wait and collect periodic TABOR payments representing the RTD Default Amount. In no instance may the Company require the District to appropriate any amounts. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" herein and Tables III and VI in APPENDIX A.

Service Payments deposited in the Revenue Account are applied to various costs of the Project, including, without limitation, fees, administrative costs, overhead and other Company expenses; any construction costs not paid with Construction Payments or equity, and operation and maintenance costs prior to payment of debt service. The Indenture provides, however, that in the event the District fails to include an RTD Appropriation Obligation in its adopted annual budget, Service Payments deposited in the Revenue Account will be applied first to fees, administrative costs, overhead and other Company expenses; and second to the payment of debt service on the Bonds prior to the payment of operating and maintenance costs. See "ACCOUNTS AND FLOW OF FUNDS."

TABOR Portion Will Not Be Accelerated

Any unpaid TABOR Portion or Additional TABOR Portion would not be subject to acceleration upon termination of the Concession Agreement after an RTD Termination Event. Following an RTD Termination Event, the unpaid TABOR Portion, in the annual amounts set forth in the Concession Agreement, would be payable *pro rata* on a monthly basis on the fifth business day of each month. Any Additional TABOR Portion would be payable over time pursuant to the schedule set forth in the Additional TABOR Portion Notice. The TABOR Portion and any Additional TABOR Portion would continue to be payable over time unless and until the District refinances all or a portion of such payments and uses the proceeds of the refinancing to prepay them. The District has agreed in the Concession Agreement to use its best efforts to refinance the TABOR Portion and Additional TABOR Portion in such event, to the extent it is able to do so pursuant to State law, but no assurance can be given that the District will be able do so. The Trustee or the Company could be required to initiate court proceedings and to make separate claims for each payment, and substantial delays or nonpayment could result. See "CONSTITUTIONAL REVENUE", "SPENDING AND DEBT LIMITS" and "PROPOSED COLORADO FISCAL INITIATIVES" in APPENDIX A and "PROJECT AGREEMENTS—Concession Agreement."

Political Risk and Community Risk

As described in APPENDIX A—"THE REGIONAL TRANSPORTATION DISTRICT", Colorado voters not only can approve the imposition of taxes and the incurrence of debt and expenditure of tax proceeds but also can attempt to limit such activities. Voters in Colorado have a long history of effecting limitations by initiative. Three

such initiatives have qualified to be on the ballot for the general election on November 2, 2010, and additional changes may be proposed or approved by the voters or by the General Assembly in the future. No assurance can be given that the District's sales taxes and agreements in connection with FasTracks, also approved by the voters, will be exempt from any new limitations. Making such determinations and clarifying the applicability of any new limitations likely will require interpretations by the courts, a process that could result in substantial delays and uncertainty.

Proposed Colorado Fiscal Initiatives. Of the three initiatives that have qualified to appear on the State-wide ballot in November 2010 two, if approved by the voters, could adversely affect the District and its finances and, indirectly, the interests of the Company and the Owners of the Bonds, including the Series 2010 Bonds.

An Initiative, designated "Proposition 101," would purportedly eliminate the District sales and use taxes on the first $10,000 of vehicle sales prices (phased in over four yearly equal steps), eliminate the District sales and use taxes on vehicle rentals or leases and eliminate sales and use taxes on telecommunication customer accounts. The passage of Proposition 101 could reduce on the District's receipt of Sales Tax Revenues and such reduction could be material. As described in APPENDIX A—"REGIONAL TRANSPORTATION DISTRICT—PROPOSED COLORADO FISCAL INITIATIVES," it is the opinion of the District's bond counsel that if Proposition 101 is adopted, to the extent District bonds and obligations, including without limitation, the Concession Agreement, have a lien on sales and use tax revenues created prior to 2011, that Article I, Section 10 of the United States Constitution and Article II, Section 2 of the State Constitution would prohibit application of Proposition 101 in a manner that would interfere with the payment obligations secured by such lien. There is no certainty that Proposition 101 will be approved and, if approved, how its provisions will be interpreted.

As described in APPENDIX A—"REGIONAL TRANSPORTATION DISTRICT—PROPOSED COLORADO FISCAL INITIATIVES," another Initiative, designated "Amendment 61," provides that after 2010, all borrowings of local governments would require the prior voter approval of the electors of the local government. This Initiative provides that it applies to "any loan, whether or not it lasts more than one year; may default; is subject to annual appropriation or discretion; is called a certificate of participation, lease-purchase, lease-back, emergency, contingency, property lien, special fund, dedicated revenue bond, or any other name; or offers any other excuse, exception, or form" (collectively, "Covered Financings"). Additionally, Amendment 61 would purportedly limit all "direct and indirect borrowings" of the District to an amount equal to 10% of assessed taxable value of real property only within the District. Further, Amendment 61 would, if adopted, purportedly require that future Covered Financings be bonded debt, be subject to prepayment without penalty and mature within 10 years.

If Amendment 61 is adopted, the ability the District to finance all or a portion of the Phase 1 Excess Financing Amount through issuance of additional FasTracks Bonds, or other debt obligations of the District, and the ability of the Company to finance all or a portion of the Phase 1 Excess Financing Amount through the issuance of Additional Phase 1 Parity Bonds could be significantly limited. If the Company were not otherwise able to finance the Phase 1 Excess Financing Amount, a Relief Event will occur under the Concession Agreement, with the result that if the Concessionaire stops construction due to insufficient funds to pay the Design Build Contractor, that stoppage will not constitute a Concessionaire Termination Event, and the District will be obligated to commence making Service Payments on the date on which the Revenue Service Commencement Date would have occurred but for the occurrence of the Relief Event. See "FINANCING FOR THE PROJECT—Phase 1 Only Financing Plan."

In addition, if Amendment 61 is adopted, the ability of the District to refinance any Applicable Termination Amount as a lump sum or a partial lump sum amount could be significantly limited. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Termination Amount" and "PRINCIPAL PROJECT AGREEMENTS—The Concession Agreement."

Other Types of Political and Community Risk. As in any commercial arrangement, parties may disagree about the appropriate course of action to be taken, particularly if adverse events occur. The District and the Company have different priorities and interests and may have difficulty in resolving disputes should their interests diverge. Similarly, the District and the Trustee, on behalf of the owners of the Series 2010 Bonds, may have very different interests and priorities following a default or other adverse event under the Concession Agreement, and no assurance can be given that the District will be willing or able to take into account the interests of the owners of the

Series 2010 Bonds if an event occurs that would entitle the District to terminate or to take other remedial action under the Concession Agreement.

Construction and operation of the Project could have considerable local business and community impacts, such as noise, dust, vibrations and increased traffic congestion during construction or operation. There is also the possibility that local and necessary structures could be damaged during and as a result of construction or operation of the Project. Addressing these impacts to the satisfaction of local residents and businesses could result in delays and/or in increased costs.

Availability of Federal Funds

As described above under "PLAN OF FINANCING FOR THE PROJECT" and in APPENDIX A—"The Regional Transportation District," the Company and the District expect that a substantial portion of the funds required to pay costs of the Project will be proceeds of federal grants, including grants from existing and anticipated full funding grant agreements with the FTA. The amount of federal funds that will be available to the District, however, will be subject to authorization and to appropriation by Congress, to approval by the FTA and to compliance by the District and by the Company and its contractors and subcontractors with ongoing requirements of numerous federal regulations. Although the District has been awarded a full-funding grant agreement for a portion of the Project and full funding grant agreements have been requested for other portions of the Project, no assurances can be given that Congress will appropriate funds sufficient in amounts or at the times required to pay Project costs when scheduled or that additional grants will be made.

As with most federal grants, the District's grant receipts will be payable only on a reimbursement basis and only for costs that meet the grant criteria. The timing and amount of the District's requests for reimbursement will depend upon the Project construction schedule and upon the availability of other funds to advance funds for Project costs that are eligible for reimbursement. Reimbursement with federal funds will be subject to review and audit and will depend upon compliance by the District, the Company, the Design Build Contractor and the other contractors with a wide variety of federal regulations. Failure by any of these parties (or their subcontractors) to comply with such regulations or a dispute concerning compliance could result in a delay in the payment of the grant receipts and/or in the payment of receipts in an amount less than the amount expected. Payment of grant receipts also could be delayed or insufficient as a result of events that are beyond the District's and the contractors' control, including earthquake or other natural disaster, labor unrest, materials shortage or other events. The District would be obligated to continue to pay Construction Payments in such event, but no assurances can be given that the District would be able to do so.

Federal law contains procedures for ensuring the availability of funds for certain approved projects and programs, including components of the Project. National priorities and resources could change in the future, however, and no assurance can be given that Congress will always provide the FTA with such assurances or will maintain the same level of FTA funding, including funding for its New Starts program. Although the New Starts program is funded from the U.S. Treasury's General Fund and not from the Mass Transit Account in the Highway Trust Fund, which is funded from motor vehicle fuel taxes, it is possible that in the event of a shortfall in the Highway Trust Fund (because of declining gas tax revenues or otherwise) Congress could direct moneys previously earmarked for the New Starts program to make up a shortfall in the Highway Trust Fund. It also is possible that legislation requiring across-the-board appropriation and budget reductions will require substantial reductions in appropriations made for the FTA generally, including its New Starts program and for the other federal grant programs that fund portions of the District's costs. Federal funding for the Project could be reduced due to federal budget and appropriations action by Congress, federal budgetary limitations, including deficit reduction requirements, delays in raising the federal debt ceiling or other federal matters beyond the Company's and the District's control. Although the Concession Agreement requires the District to find other sources of funding in the event federal funds are not made available for the Project, and although the District would have a number of options in such event, no assurance can be given that the District will appropriate the required funding in the amounts and at the times required. In the event that the District does not provide the required funding, such failure would constitute an RTD Termination Event. The Company could then terminate the Concession Agreement and the Applicable Termination Amount would be due and payable by the District to the Company. No assurance can be given that the District would have sufficient funds to pay the Applicable Termination Amount. See "PRINCIPAL PROJECT

AGREEMENTS—Concession Agreement – Payment of Termination Amounts" and APPENDIX C—"Summary of Certain Provisions of the Concession Agreement."

Pass-Through Risks

The Design Build Contract and the O&M Contract are designed to pass through, for fixed compensation, to the Design Build Contractor and to the O&M Contractor, respectively, all of the Company's obligations and risks under the Concession Agreement with respect to the design, procurement, construction, operation and maintenance of the Project. There can be no assurance, however, that in all cases all of such responsibilities and risks have been passed through or that events will not occur that would result in increases in the compensation payable to the Design Build Contractor and/or the O&M Contractor that are not reimbursed or otherwise provided for under the Concession Agreement. In addition, permitted reductions in payments by the District to the Company because of non-performance by the O&M Contractor or by the Design Build Contractor may not be made up by reductions in Company payments to the O&M Contractor or Design Build Contractor, and under some circumstances the reductions in payments by the District may exceed the amounts for which the O&M Contractor or the Design Build Contractor are responsible. In such event, if the Company cannot replace the Design Build Contractor or the O&M Contractor, the Company may not receive Construction Payments or Service Payments in amounts sufficient to pay debt service on the Bonds or any payments at all.

Construction Risks

As described in APPENDIX E—"Summary of Certain Provisions of the Design Build Contract", the Design Build Contract requires the Design Build Contractor to achieve the Revenue Service Commencement Date for each Commuter Rail Service by no later than five months prior to the corresponding deadline set forth in the Concession Agreement. Both of these schedules, however may be extended under certain circumstances.

As with any major construction effort, the construction of the Project involves many risks that could result in cost overruns, in delays or in a failure to complete the Project at all.

Some of the risks to completing the Project on time and within budget include any delay in repairing or cleaning up portions of the site, shortages of materials and labor, work stoppages, labor disputes, bad weather, floods, earthquakes and other casualties, unforeseen engineering, environmental or geological problems, changes in law, discovery of unidentified hazardous materials or unidentified utilities, third-party litigation, difficulties in obtaining or renewing permits or other federal, state or local government approvals, changes in federal and state or local design or building requirements and permit conditions, any of which could increase the cost and delay of the construction and start-up of the Project. Despite the fact that the Design Build Contract is a fixed-price contract and that a number of risks have been contractually allocated to the Design Build Contractor under the Design Build Contract or to the District under the Concession Agreement, not all of these risks have been shifted or can be insured and there can be no assurance that the Project will be completed on the projected time table or in line with the budget and other assumptions described in this Official Statement.

Lack of coordination among the Company, the District, the Design Build Contractor, the Rolling Stock Supplier, the utility owners, the independent engineers or the District's contractors to complete their portions of the work or their inspections on schedule could also result in delays and/or cost overruns. Increased costs that result from delays or change orders caused by actions of the District, the Company utility owners or other third parties or by events of *force majeure*, changes in applicable laws or other uncontrollable circumstances would not be covered under the fixed price and schedule set forth in the Design Build Contract and would not require payment by the Design Build Contractor of liquidated damages to the extent the Design Build Contractor did not cause or contribute to such event. Some, but not all, of these events may be covered by the District's builders' risk insurance, by the District pursuant to provisions of the Concession Agreement that require payment of Incurred Costs or other relief for events of *force majeure* and relief for other relief events and by available contingency funds, but no assurance can be given that if such uncontrollable events occur the Company would have or would be able to obtain sufficient funds to cause the Design Build Contractor to complete construction on time or the Trustee to pay debt service on the Series 2010 Bonds or to make the other payments required to be made under the Indenture.

Not all risks are insured, and it is not possible to obtain insurance for all *force majeure* events and other contingencies described in the Design Build Contract or in the Concession Agreement. See "—Events of Force Majeure and Limited Insurance Coverage." In addition, the amount of liquidated damages the Design Build Contractor could be required to pay under the Design Build Contract for delay is limited by the terms of the Design Build Contract and may not be sufficient to cover all of the Company's losses in the event of a delay or a failure to complete the required Work in accordance with the Concession Agreement. In addition, the Design Build Contractor has not waived its rights to contest a demand for payment of liquidated damages, and neither the Design Build Guarantor nor the issuer of the Design Build Contractor's performance bond is guaranteeing performance by the Design Build Contractor under all circumstances and may assert as a defense for payment any defenses the Design Build Contractor claims or has. No assurance can be given that available contingency funds, insurance, capitalized interest and/or other funds will be sufficient should delays occur or should the Company have payment obligations that are not satisfied by or the responsibility of the Design Build Contractor under the Design Build Contract.

Risks Associated with Termination During Design Build Period

During the Design Build Period, the Concession Agreement could be terminated either due to an RTD Termination Event or upon failure by the District to deliver the Full Phase 1 Notice to Proceed by December 31, 2011. See "THE PROJECT—Acquisition of UP Sites" and "PRINCIPAL PROJECT DOCUMENTS—Concession Agreement." If the Concession Agreement is so terminated, the District is then obligated to pay the Company the Applicable Termination Amount which would be an amount that at least includes the outstanding principal and interest on the Series 2010 Bonds, calculated initially at the Termination Date, and then recalculated on each anniversary of the Termination Date, until the Applicable Termination Amount is paid in full. This calculation is intended to require that upon these Termination Events, the Company always receives an amount at least equal to all unpaid principal and interest on the Series 2010 Bonds.

Under the Concession Agreement, any Applicable Termination Amount shall be due and payable by the District 60 days after the Termination Date. Under the Concession Agreement, the District is obligated, on an on-going basis, to use its best efforts to effect a "refinancing" of the TABOR Portion and any Additional TABOR Portion payable by the District and to pay the Applicable Termination Amount as a lump sum or, with the consent of the Company, a partial lump sum amount.

The District's obligation to pay any portion of the Applicable Termination Amount that has not been paid in full will be secured by a pledge of the RTD Pledged Revenues and will be payable from the TABOR Portion and any Additional TABOR Portion, in accordance with the terms of the Concession Agreement. Payment of the TABOR Amount and any Additional TABOR Amount does not, however, commence until 2017. As a result, under certain circumstances when the Concession Agreement is terminated upon failure by the District to deliver the Full Phase 1 Notice to Proceed by December 31, 2011, or is otherwise terminated during the Design Build Period for an RTD Termination Event, that there might not be sufficient cash in the Project Accounts or the Debt Service Fund to pay all of the interest when due on the Series 2010 Bonds during the Design Build Period. Such amounts should ultimately be paid either when the District refinances its obligation to pay the Applicable Termination Amount into a lump sum payment or as the Company receives annual payment of the TABOR Portion. However, failure to pay interest on the Bonds when due is an Event of Default under the Indenture. See "SECURITY FOR THE BONDS—Indenture."

However, under this circumstance the Company may seek to arrange short term funding to pay interest when due on the Series 2010 Bonds during the Design Build Period in order to prevent the occurrence of an Event of Default under the Indenture. There can be no assurance, however, that Equity Participants will provide any necessary short term funding to pay interest when due on the Series 2010 Bonds during the Design Build Period in this circumstance.

Rolling Stock Risks

The Design Build Contract requires the Design Build Contractor to supply rolling stock for the Project. The Design Build Contractor is entering into the Rolling Stock Supply Contract with the Rolling Stock Supplier, as a subcontractor to the Design Build Contract pursuant to which the Rolling Stock Supplier will be required to

supply, for a fixed price all adequate and competent labor, supervision, spare parts, tools, equipment, installed and consumable materials, services, testing devices and warehousing and each and every item of expense necessary for the supply of the Rolling Stock and to pay liquidated damages if the Rolling Stock is not delivered in accordance with the delivery schedule in the Rolling Stock Supply Contract. There can be no assurance, however, that the Rolling Stock will be delivered as required under the Rolling Stock Agreement or that failure of timely delivery of the Rolling Stock would not adversely affect the ability of the Company to comply with the requirements of the Concession Agreement. See "—Technology Risk" and "PRINCIPAL PROJECT AGREEMENTS—Rolling Stock Supply Contract" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT."

Environmental and Permitting Risks

The Company may be adversely affected by environmental contamination that could require substantial expenditures and/or delay project completion. Hazardous material contamination is known to exist along the right-of-way for the Project (the "Project Site") and may be present in other nearby areas. Environmental laws, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), impose liability on owners or operators for the clean-up costs associated with remediating contaminated property. Because the Company is the lease holder for the Project Site, the Company could become liable for certain claims for remediation of pre-existing contamination existing on or under the Project Site and related areas, whether such contamination is known or unknown, as well as future contamination associated with the Project.

Under the Concession Agreement, the District has agreed to perform itself or to pay for certain remediation to be performed by the Company relating to the clean-up of pre-existing hazardous materials above applicable cleanup standards on or under the Project Site and adjacent areas. In addition, under the Design Build Contract, the Design Build Contractor is obligated to assume all obligations of the Company with respect to the performance of any remediation and the management of the Project in response to any such remediation. If the Design Build Contractor or the District fails to perform or the District fails to pay for its contractual obligations with respect to pre-existing contamination, it is possible that the Company would be held responsible for some or all of such cleanup requirements.

The presence of hazardous material contamination at or near the Project Site could cause construction delays in order to permit investigation and remediation of such conditions. The Company receives schedule relief in connection with the remediation of pre-existing contamination that is unknown prior to the Company's taking possession of the Project Site and in connection with delays in completing remediation being performed by the District. Although the Company believes it has made adequate provision in its budget for clean-up costs, the budget does not make allowance for costs related to delays.

Under the Concession Agreement, the Company does not receive any schedule relief for the clean-up of hazardous materials that were disclosed in environmental reports or could reasonably have been identified or discovered by an appropriately qualified and experienced contractor or engineer prior to the time the Company received possession of the relevant portion of the Project Site or for any remediation delays arising from the Company's performance of remediation. Although the Design Build Contract has been structured to allocate to the Design Build Contractor the risks of delay retained by the Company, no assurance can be given that all of these risks have been shifted. The liability or delays associated with contamination could have an adverse effect on the net revenues expected to be derived by the Company from the operation of the Project, thereby adversely affecting the ability of the Company to satisfy its obligations under the Loan Agreement and in turn, the payment of principal and interest on the Bonds.

Changes in environmental laws may result in increased construction costs, delays in construction, or increased compliance costs. The laws and regulations governing environmental protection have changed significantly over recent years and are expected to continue to change. Regulations governing, among other things, air pollution, noise abatement and control, wetlands mitigation, hazardous waste, solid waste, water quality and endangered species may become more stringent in the future, possibly requiring additional compliance and conceivably having a material and adverse effect on the design, construction, or operation of the Project. The Concession Agreement provides relief from adverse cost or schedule effects of certain Changes in Law. See "—

Changes in Governing Laws" below and "Summary of Certain Provisions of the Concession Agreement—Changes in Law" in APPENDIX C and Section 5.7 in APPENDIX J—"Technical Advisor Report."

The inability to obtain required permits or material changes in permitting requirements may adversely affect the Project. Governmental approvals ("Permits") of many kinds are required to be obtained for the construction and operation of the Project. The issuance of such Permits may include public notice and comment, hearings, or administrative or judicial appeals. Permits may be appealed if they have not been issued in compliance with law, and there are various remedies available to governmental agencies and to the public if the Project is constructed without appropriate Permits or is constructed other than in compliance with the Permits.

The District has obtained all of the Permits the Concession Agreement requires the District to acquire ("District Permits"), and the Company is to obtain all of the other Permits (and Permit renewals or amendments) required for the Project. Under the Design Build Contract, the Design Build Contractor is assuming the Company's responsibility under the Concession Agreement for obtaining, furnishing, paying the cost of and maintaining in full force and effect all Permits required for the timely construction of the Project and for complying with and paying the cost of compliance with all environmental laws applicable to the construction of the Project other than the remediation costs discussed above that are retained or assumed by the District. The O&M Contractor is assuming the responsibility for obtaining and complying with Permits required for Operation. The obligation to obtain all required Permits extends to third-party consent or approvals arising under agreements between the District and other persons, including municipalities, railroads, and utilities.

The design of the Project is not complete and the terms of existing and expected permits could change as the Project specifications change during the design process, and delays could ensue particularly if any Permit changes would require public hearings. The Company and the Design Build Contractor are familiar with existing permitting requirements and the Company and the Design Builder expect that all Permits required for the Project will be obtained as required for timely construction of the Project. Although the Technical Advisor states in its report that it believes the risk of delay due to permitting issues to be very low , no assurance can be given that there will not be delays in obtaining required permits or that additional Permits or changes to the conditions in the Permits will not arise as design and construction of the Project progress. See "THE PROJECT—Permits" and the Report of the Technical Advisor in APPENDIX J—"TECHNICAL ADVISOR REPORT."

The Project construction schedule assumes that Permits will be obtained in accordance with a schedule that anticipates a conventional permitting process without significant appeals, delays, imposition of unexpected conditions or modifications to Project design. Any material delay in obtaining or renewing Permits, imposition of an unexpected material condition on a Permit, or modification of Project design required as a result of the Permit process could increase the costs of constructing the Project or delay its completion. The Company is eligible for schedule and cost relief for certain types of delays in obtaining Project Permits or for certain unexpected conditions, but the delays inherent in governmental processing of the Project Permits would not cover all risks relating to the Project Permits. Much of the risk of these additional costs and delays is allocated to the Design Build Contractor under the Design Build Contract, which would limit the impact on the Company of such increased costs and delays. There are procedural and other limitations on the liability of the Design Build Contractor under the Design Build Contract, and, in the event that the Contractor is not liable or does not pay for such costs or delays, there may be an adverse effect on the Company's ability to pay the principal of and interest on the Bonds, including the Series 2010 Bonds.

Operating Risks

The Concession Agreement includes numerous requirements that must be satisfied by the Company as a condition to the District's obligation to make Service Payments in the amounts required by the Company. As described under "PROJECT AGREEMENTS—The Concession Agreement" and in APPENDIX C, the Availability Factor, and thus the Service Payments, may be reduced for "Stop Points" assessed against the Company for failure to achieve specified levels of Availability (train and station availability and on-time performance) and may be reduced to offset any indemnity claims against the Company. The Concession Agreement provides that deductions due to the assessment of Stop Points and the Availability Factors are first to be applied to the portion of the Service Payments that constitutes an RTD Appropriation Obligation before being applied to the TABOR Portion of the

Service Payment, but any reduction in Service Payments would reduce the amount available to pay O&M Expenditures and other expenses and to pay debt service on the Series 2010 Bonds. Although the O&M Contract has been structured so that any such deduction in the Service Payment payable to the Company would be mirrored by a similar reduction in the amount of compensation payable to the O&M Contractor, no assurance can be given that the applicable provisions of the Concession Agreement and the O&M Contract are perfectly matched or that if the O&M Contract is terminated, that another operator could be found that would agree to similar terms.

As with any infrastructure project of the size and complexity of the Project, operations could be affected by many factors, including breakdown or failure of equipment or processes, performance below expected levels of availability, failure to operate to design specifications and in accordance with then-applicable permit requirements, labor disputes, changes in law and catastrophic events of force majeure. Not all of these events are within the control of the O&M Contractor or the Company and not all can be insured against. The District has agreed to bear the risk of some, but not all, of these events under provisions of the Concession Agreement that require the District to pay Incurred Costs for certain events. The occurrence of any of such events could significantly increase O&M Expenditures, which are payable before debt service, and reduce or even eliminate Project revenues.

Although the Concession Agreement and the O&M Contract are designed to protect the Company against certain of these risks, no assurance can be given that the Project can be operated at the performance levels required to pay principal and interest on the Series 2010 Bonds when due. The O&M Contract provides that the Company may terminate the O&M Contract if the Operator has paid certain claims that equal the limit of liability stated in the O&M Contract. If the O&M Contract is terminated, the Company may not be able to find a replacement operator willing or able to enter into a replacement agreement on terms that pass through operating risks to the same degree as the O&M Contract or that do so at a level of compensation substantially similar to that in the O&M Contract.

The Indenture provides that the costs of operating and maintaining the Project are to be paid before debt service on the Bonds and before any required deposits to the Debt Service Reserve Account. As a result, significant increases in operating and maintenance costs over amounts currently projected by the Company could adversely affect the Company's ability to make payments under the Loan Agreement to pay of principal and interest on the Bonds. See "SOURCES AND USES OF FUNDS AND PROJECTED FINANCIAL INFORMATION—Projected Cash Flow and Debt Service Coverage for the Series 2010 Bonds During Operations."

Risk of Set-Off

The Concession Agreement provides that, if the Company owes any amounts to the District, the District may set off such amounts against amounts payable by the District to the Company. As a result, it is possible that amounts owed by the Company to the District, including, without limitation, amounts owed in respect of the Company's obligation to indemnify the District against certain costs. claims and liabilities, could be set off against the amount of Service Payments the District is required to pay to the Company. Depending upon the amount of any such set-off, it is possible that the net amount payable as one or more Service Payments would be less than the applicable TABOR Portion and therefore would not be sufficient to pay debt service on the Bonds, including the Series 2010 Bonds.

Technology Risk

Although the Technical Advisor has concluded that the Project itself is relatively straight-forward in engineering terms, the Technical Advisor did call attention to two components, the rolling stock and the proposed signal technology, that are new and thus could pose certain risks.

The Technical Advisor notes that the rolling stock, although a new design, is of the same type that is currently being tested in Philadelphia and that testing will be complete and the cars will in service in Philadelphia before the cars for the Project must be ordered. No assurance can be given, however, that flaws will not be discovered when the cars are tested or installed as part of a different system in a different location.

The Technical Advisor also notes a risk posed by the Federal Railroad Administration's (the "FRA") requirement that a satellite-based safety system (the "Positive Train Control" or "PTC" system) be in place on

almost all passenger and freight rail systems, including the Project, by 2015. Unlike the rolling stock, which is being tested elsewhere, the PTC is still under development and although some of the parts use proven technology, the system as a whole has not yet been developed, installed or tested anywhere. The Technical Advisor expects that if industry-wide difficulties prevent the PTC from operating as part of the Project, the same problems will affect rail service in the rest of the country and that the FRA would likely extend the 2015 deadline rather than stop all rail service. No assurance can be given, however, that the FRA would extend the deadline, particularly for passenger service, or that developing and installing a PTC system that meets all of the FRA's requirements will not increase the cost of completing or operating the Project or cause delays in completing the Project or in commencing revenue service.

In addition to meeting current requirements of the District and the FRA, the Company and the O&M Contractor must be able to respond if changes in federal, state or other requirements mandate changes in the Project's facilities or technology. It is not possible to predict the kind or cost of changes that could be mandated over the term of the Series 2010 Bonds, and as with the risks of changes in Permit requirements, no assurance can be given that the Company, the O&M Contractor and/or the District will always be able to respond.

Non-Performance or Delay under Concession Agreement

Pursuant to the terms and conditions of the Concession Agreement, the Company is obligated to complete certain portions of the Project by designated deadlines. Pursuant to the terms and conditions of the Design Build Contract, the Design Build Contractor has agreed to comply with such deadlines as they relate to the work required to be undertaken by the Design Build Contractor under the Design Build Contract.

A delay in the completion of the construction of the Project may cause a delay by or, in certain circumstances, the inability of, the Company to receive the Service Payments, thereby adversely impacting the repayment of the Series 2010 Bonds. If the Design Build Contractor does not meet the applicable construction deadlines set forth in the Design Build Contract, the Company may not achieve the Revenue Service Commencement Date upon which the payment of the Service Payment commences. If such construction deadline is the Revenue Service Deadline Date, for which there is no permitted delay, the District may terminate the Concession Agreement. The Applicable Termination Amount payable under such circumstance may not be sufficient to pay in full all obligations under the Series 2010 Bonds. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—Payment of Termination Amounts" and APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT—Termination." In addition, although the Company is entitled to receive compensation from the Design Build Contractor through payments of liquidated damages to use to service payments on the Series 2010 Bonds, the Design Build Contractor could fail to pay such liquidated damages pursuant to the Design Build Contract, or Design Build Guarantors could fail to honor their payment obligations under the guaranty securing the obligations of the Design Build Contractor, in either case which may result in a delay in the Company's ability to collect the same or otherwise prevent the recovery of any such amounts. Any such failure or delay may adversely impact the Company's cash flow and its ability to comply with its payment obligations under the Loan Agreement. In addition, the failure to comply with the terms of the Concession Agreement may result in the District having the right to terminate the Concession Agreement. To the extent that any of the foregoing occurs, the Company may have a limited ability, or no ability to make payments pursuant to the Loan Agreement, which in turn, may adversely impact payments of the principal, interest or premium, if any, on the Series 2010 Bonds.

Events of Force Majeure; Limited Insurance Coverage

Construction and operation of the Project are at risk from events of *force majeure*, such as damaging storms, winds and floods, earthquakes, fires and explosions, strikes and lockouts, sabotage, wars, blockades, riots and spills of hazardous materials, among other events. Construction and operations also may be stopped or delayed by non-casualty events such as discovery of archaeological artifacts, changes in law, delays in obtaining and renewing permits, revocation or revision of permit requirements and litigation, among other things.

Although the District, the Design Build Contractor, the O&M Contractor and the Company will be required to provide insurance, the required policies do not cover damage and delay from all events that potentially could

interrupt construction or operation of the Project. Insurance policies may not be maintained or be obtainable in amounts that would be sufficient or be paid on time in all events to pay all of the costs required to be paid under the Concession Agreement and under the Indenture, including debt service on the Series 2010 Bonds. If certain events of *force majeure* occur during the Operating Period, the District will be required to continue to pay the Service Payment without deduction in respect of the effects of the *force majeure* event; however, such protection does not cover all events that potentially could interrupt operation of the Project.

Risks that may not be insurable include a nuclear event, war, terrorism, unforeseeable environmental or geological conditions, discovery of archeological artifacts, criminal or intentional acts by the insured, bankruptcy, loss of market, longshoremen's strikes, riot and civil commotion and insurer insolvency. In addition, changes in federal, state or local design, building and environmental requirements and other changes in law are not risks that are generally insurable. A number of the policies, including the Design Build Contractor's policies and the O&M Contractor's liability policies, are blanket policies that cover other facilities as well as the Project, and no assurance can be given that sufficient coverage will be available, especially if more than one facility is damaged at the same time. In addition, there can be no assurance that any use by the Design Build Contractor or the O&M Contractor of its insurance proceeds would not be challenged by other creditors, that the Company could repair any damage if insurance proceeds were not available or that insurance proceeds could be used to pay debt service if damaged facilities cannot be repaired or restored.

Bankruptcy and Insolvency Risks

The enforceability of the rights and remedies of the Owners of the Bonds, including the Series 2010 Bonds under the Indenture and of the Company under the Material Project Contracts, the enforceability of obligations of the Company, the Design Build Contractor, the District, the Design Build Guarantors, the O&M Guarantors, the Operator and the issuers or obligors under the Deposit Agreements, letters of credit and performance bonds and the enforceability of the liens, security interests and pledges created by the Indenture, Security Agreements, the Leasehold Mortgage and other documents may be subject to the United States Bankruptcy Code (the "Bankruptcy Code"), to other bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and equitable principals that may limit enforcement under Colorado law of certain remedies. Risks associated with a bankruptcy of the Company include the risks of delay in payment or of nonpayment under the Loan Agreement and the risk that the Trustee or the District, as lessor, may be unable for an extended time, or at all, to evict a bankrupt Company and to substitute a new concessionaire or tenant. Certain of these risks are risks that are incurred whenever one enters into a contract with an entity that could become a debtor under the Bankruptcy Code, while others are risks that result from the treatment under the Bankruptcy Code of unexpired leases or secured financings. Potential purchasers of the Series 2010 Bonds should consult their own attorneys and advisors in assessing the risks and the likelihood of recovery in the event the Company or any other party to a document described herein becomes a debtor in a bankruptcy case prior to the time the Bonds, including the Series 2010 Bonds are paid in full.

Company Bankruptcy Risk. Most of the assets that comprise the Trust Estate are derived from the Concession Agreement. If the Company became the subject of federal bankruptcy proceedings, operation of the automatic stay provisions of the Bankruptcy Code under certain circumstances may require the District and the Trustee to obtain bankruptcy court approval prior to taking any action to enforce the Concession Agreement (or to enforce the Loan Agreement, the Security Agreement or any other agreement that creates a Security Interest for the benefit of the Trustee on behalf of the Owners of the Bonds), including declaring the Concession Agreement (or such other documents) to be in default, recovering amounts due but unpaid, terminating the Concession Agreement, accelerating the due dates of any payments due from the Company, evicting the Company and taking possession of the Project or realizing against any collateral provided by Company as security for its payment obligations under the Concession Agreement and the Loan Agreement or enforcing any other remedies provided for in the Concession Agreement or in the other documents.

The District, the Design Build Contractor and the O&M Contractor each is entering into a "Direct Agreement" with the Company and the Trustee for the benefit of the Owners of the Bonds, each designed to provide the Trustee with notice and time to take action following the occurrence of an event that would entitle a party to terminate or to suspend its agreement with the Company. The Lenders' Direct Agreement specifically provides that if the Concession Agreement is rejected or is terminated as a result of any bankruptcy proceeding involving the

Company, the District will, at the request of the Trustee, execute a new concession and lease agreement on terms and conditions substantially similar to the Concession Agreement, either with the Trustee or with the Trustee's permitted designee or assignee, including a Qualified Substitute Concessionaire. The Direct Agreement also provides that the District will agree to perform all of the obligations to have been performed by the District under the Concession Agreement for the balance of the remaining term of the Concession Agreement before giving effect to such rejection or termination. See APPENDIX D—"SUMMARY OF CERTAIN PROVISIONS OF THE LENDERS' DIRECT AGREEMENT—Execution of New Concession Agreement." No assurance, however, can be given that the provisions of these direct agreements, including the Lenders' Direct Agreement, will always be enforced. Inability to enforce the provisions of the Lenders' Direct Agreement could adversely affect the continued obligation of the District to pay the TABOR Portion and thus, the continuation of the subordinate lien of the Owners of the Bonds on RTD Sales Tax Revenues to pay the TABOR Portion. A bankruptcy of the Company could result in long delays and possibly in large reductions in amounts payable to the Owners of the Bonds, including the Series 2010 Bonds.

In addition, payments made by a lessee within 90 days (up to 366 days if the lessor is found to be an insider) of a filing of a bankruptcy case could be deemed to be "avoidable preferences" under the Bankruptcy Code and thus could be subject to recapture by the Company or by its bankruptcy trustee.

District Insolvency or Bankruptcy Risk. Under current Colorado law, the District cannot file for bankruptcy protection under Chapter 9 of the Bankruptcy Code. There can be no assurance, however, that the Act or other Colorado law or the Bankruptcy Code will not be amended in the future to permit the District to file for bankruptcy protection, and such a filing could, under certain circumstances, subject all or a portion of the RTD Sales Tax Revenues to the jurisdiction of the bankruptcy court.

Other Parties. The Design Build Contractor, the O&M Contractor, the Rolling Stock Supplier and their guarantors and sureties are involved or affiliates of companies that are involved, in many businesses and are entities that can become debtors under the Bankruptcy Code. If one of the contractors (or its guarantor) became a debtor under the Bankruptcy Code, the Company's or the Trustee's ability to substitute a new contractor, to obtain funds under the guarantees or to exercise other remedies may be delayed or not available at all. Substantial delays or losses could result.

Investment Agreement Risk. The Deposit Agreement Banks are entering into separate Investment Agreements (the "Deposit Agreements") with the Account Bank acting as depositor under the Deposit Agreement. As described above under "FINANCING FOR THE PROJECT" substantial amounts are being invested with the Deposit Agreement Banks, and if a Deposit Agreement Bank were to become insolvent or were to enter bankruptcy, the Account Bank (and therefore, the Company) could suffer a loss on its investment, and the loss could be a total one.

Risks also exist that, if the New York State Banking Superintendent were to be appointed as a receiver or conservator for such Deposit Agreement Bank or if other bankruptcy events were to occur, the Superintendant may request a stay of any action to enforce the Deposit Agreement and amounts held by such Deposit Agreement Bank under the Deposit Agreement would be treated as part of the receivership, conservatorship or bankruptcy estate. There could be substantial delays or reductions in the amount the Account Bank receives under the Deposit Agreement. The funds deposited under the Deposit Agreement are commingled with the Deposit Agreement Bank's other funds and used for its own benefit and therefore, the Deposit Agreement Bank's obligation to repay the funds deposited represents only a general, unsecured obligation of the Deposit Agreement Bank. Moreover, such amounts generally would not be insured by any federal or state guarantee insurance funds relating to deposit accounts.

In addition, the Account Bank may not be able to exercise its contractual rights or remedies to cause the liquidation of any collateral pledged by the Deposit Agreement Bank or the termination or acceleration of the transactions under the Deposit Agreement and may not be able to obtain collateral or withdraw funds held by the Deposit Agreement Bank, and a conservator or receiver may determine to "disaffirm or repudiate" the Deposit Agreement if it determines that performance of the Deposit Agreement is "burdensome," regardless of any provision in the Deposit Agreement that would permit the Account Bank to terminate the Deposit Agreement.

Limitations on Enforceability

Upon a default under the Concession Agreement, the Loan Agreement, the Indenture, any of the Material Project Contracts or any of the Security Documents, the remedies available to the District, the Company, the Trustee and the Account Bank may depend upon judicial actions that may be subject to substantial discretion and delay. Some of these remedies may in fact turn out not to be enforceable at all. The rights of the Owners of the Bonds, including the Series 2010 Bonds, and the enforceability of, the Company's, the District's and the other parties' obligations will be subject to the exercise of judicial discretion under a variety of circumstances. The enforceability of governmental obligations is also subject to constitutional, statutory and public policy limitations and to other considerations that do not limit enforcement of obligations of private parties. The District makes a number of agreements, such as its agreement to make payments during construction and operations, its agreements regarding additional debt and its agreements to make certain payments in the event the Concession Agreement with the Company is terminated. These agreements and others are for the benefit of the Owners of the Bonds, but no assurances can be given that a court exercising its judicial discretion will always enforce them. The opinion of Bond Counsel as to the enforceability of the Indenture and the Bonds and the opinions of other parties' counsel will be qualified as to bankruptcy, insolvency and such other legal events. Remedies provided in the Indenture and in the other documents to the Trustee and/or the Owners of the Bonds, and to the District may be limited and may not be available readily or at all.

The enforceability of the Design Build Contractor's performance bond may be limited not only by the legal matters described above but also by various provisions of suretyship and insurance law. The surety providing the performance bond is not waiving its right to assert the Design Build Contractor's defenses to payment, nor is the surety waiving its suretyship defenses. The obligations of the surety under the performance bond to complete construction or to pay damages thus are limited, and no assurances can be given that the surety will honor a claim under the performance bond.

Insufficient Collateral

It may be difficult to realize the value of the Collateral pledged as part of the Trust Estate, and the proceeds received from a sale of such Collateral may be insufficient to repay the Bonds, including the Series 2010 Bonds. Foreclosure on such Collateral on the Owners' behalf may be subject to perfection and priority issues and to practical problems associated with the realization of the Owners' security interest in such Collateral. The enforcement of the security interest with respect to any such Collateral may not provide sufficient funds to repay all amounts due on the Bonds. Any such Collateral will be shared with the holders of other senior debt that the Company incurs concurrently with the issuance of the Series 2010 Bonds or in the future, which increases the risk that the proceeds of foreclosure on such Collateral will not be sufficient to repay the Bonds, including the Series 2010 Bonds. In addition, since the Company's principal asset is its rights under the Concession Agreement, there are practical limitations on the exercise of remedies in respect thereof. Under the Concession Agreement, any transfer of the Company's rights, including pursuant to a foreclosure, is subject to the prior approval of the District. Moreover, any transferee must meet certain requirements established by the Concession Agreement. Thus, as a practical matter, the Company's creditors (including the Owners of the Bonds) will have limitations on their ability to replace the Company as the concessionaire under the Concession Agreement.

Continuing Compliance with Tax Covenants

The Indenture, the Loan Agreement and the Company's and the District's tax certificates contain various covenants and agreements on the part of the Company and the District that are intended to establish and maintain the tax-exempt status of interest on the Series 2010 Bonds. A failure by the District or the Company to comply with such covenants and agreements, including their respective remediation obligations could, directly or indirectly, adversely affect the tax-exempt status of interest on the Series 2010 Bonds. Any loss of tax-exemption could cause all of the interest received by Owners to be taxable. See "TAX MATTERS—Tax Enforcement." Neither the District nor the Company is required to redeem the Series 2010 Bonds should interest be declared to be taxable.

Judicial Challenge

The Project is to be designed, constructed and financed and operated in accordance with the Concession Agreement and the other Material Project Contracts. While no proceedings are currently pending, there is no assurance that any judicial or administrative actions or investigations challenging the issuance of the Series 2010 Bonds, the construction or financing of the Project or the operation of the Project or any of the other transactions contemplated by this Official Statement will not be filed or commenced in the future or, if they are filed or commenced, that they will not adversely affect the commencement or timely completion of the Project, or the ability of the District to pay principal and interest on the Series 2010 Bonds.

Changes in Governing Laws

Changes in the laws related to the Project may impact the Company's ability to satisfy its payment obligations under the Loan Agreement, thereby negatively affecting the repayment of the Series 2010 Bonds. The Project and the related financing are subject to various laws, policies and regulations, including, among others, laws governing environmental protections and tax policies. The Project and the Company's business, financial condition and results of operations may be adversely affected by changes in such laws, policies or regulations. To the extent that the Company and/or any other parties that are part of the Project require expenditures of additional funds not budgeted for in order to be in compliance with any new or amended policies, regulations or laws, and assuming that no compensation or relief is provided pursuant to the terms and conditions of the Concession Agreement, such unanticipated expenditures could negatively impact the Company's cash flow and thus its ability to satisfy its payment obligations under the Loan Agreement. Furthermore, to the extent that the Company and/or any other parties that are part of the Project require additional time in order to be in compliance with any new or amended policies, regulations or laws, and as a result, the Project is delayed, the Company may suffer a delay in the Revenue Service Commencement Date and hence have less revenues for servicing its debt obligations. Depending on the extent of the delay and assuming that no compensation or schedule relief is provided pursuant to the terms and conditions of the Concession Agreement, this delay may result in a breach of the Company's obligations under the Concession Agreement, which could give rise to the assessment of liquidated damages against the Company and potentially, a right of the District to terminate the Concession Agreement. To the extent that any of the foregoing occurs, the Company may have a limited ability, or no ability, to continue making payments pursuant to the Loan Agreement, thereby adversely impacting payments of principal, interest or premium, if any, on the Series 2010 Bonds.

Uncertainties of Forecasts and Assumptions

The information in this Official Statement includes certain assumptions, forecasts and projections. Demonstration of compliance with certain of the covenants contained in the Indenture and in the Concession Agreement may also be based upon assumptions and projections. Such assumptions, forecasts and projections and any forecasts and projections that may be contained in any future certificate required under the Concession Agreement or the Loan Agreement or Indenture are not necessarily indicative of future performance, and actual results are likely to differ, perhaps materially, from those projected. None of the Company, the District, the Operator or any other party assumes any responsibility for the accuracy of such projections. In addition, certain assumptions with respect to future business and financing decisions are subject to change. No representation is made or intended, nor should any representation be inferred, with respect to the likely existence of any particular future set of facts or circumstances, and prospective purchasers of the Series 2010 Bonds are cautioned not to place undue reliance upon the projections contained in this Official Statement or upon requirements for future projections. If actual results are less favorable than the results projected or if the assumptions used in preparing the projections prove to be incorrect, the District's ability to make the payments required by the Concession Agreement and the Company's ability to make timely payment of the principal of and interest on the Series 2010 Bonds may be materially and adversely affected.

Ratings of Series 2010 Bonds

Two credit rating agencies have assigned credit ratings to the Series 2010 Bonds. The ratings of the Series 2010 Bonds are not a recommendation to purchase, hold or sell the Series 2010 Bonds, and the ratings do not comment on the market price or suitability of the Series 2010 Bonds for a particular investor. The ratings of the

Series 2010 Bonds may not remain for any given period or time and may be lowered or withdrawn depending on, among other things, each rating agency's assessment of the Company's financial strength.

Market Liquidity

The Series 2010 Bonds constitute a new issue with no established trading market. Although the Underwriters have informed the District and the Company that the Underwriters currently intend to make a market for the Series 2010 Bonds, the Underwriters are not obligated to do so, and they may discontinue any such market-making at any time without prior notice. No assurance can be given as to the development or liquidity of any market for the Series 2010 Bonds. If an active public market does not develop, the market price and liquidity of the Series 2010 Bonds may be adversely affected.

PRINCIPAL PROJECT AGREEMENTS

Concession Agreement

General. Service Payments made under the Concession Agreement will be the primary source of repayment of the Bonds. The District intends to finance the Service Payments with collections of the RTD Sales Tax Revenues and other funds of the District. The obligations of the District and the Company under the Concession Agreement are set forth below.

Rights and Obligations of the Company; Concession and Lease. The Company has agreed to (a) design and construct the Commuter Rail Projects and the Commuter Rail Maintenance Facility; (b) design, procure and install the DUS Systems; (c) design and procure the Rolling Stock; (d) provide the Commuter Rail Services and operate and maintain the Commuter Rail Network and the Rolling Stock; and (e) commencing on a specified date, dispatch the Heavy Rail Movements, as each of those terms are defined in the Concession Agreement.

The District has agreed to lease to the Company, for the purpose of providing the Company the access necessary to construct, operate and maintain the Commuter Rail Network: (a) all Sites (commencing on the date on which such Sites are made available to the Company under the Concession Agreement); (b) to all other parts of the Commuter Rail Network (excluding the DUS Rail Segment), commencing on the date on which title to such part of the Commuter Rail Network passes to the District; and (c) the Rolling Stock, commencing on the date on which title to such Rolling Stock passes to the District, in each case, upon the terms, covenants and conditions of, the Concession Agreement and the other Project Agreements.

The District has also agreed to grant to the Company a license to use and occupy all parts of the DUS Rail Segment Site and the DUS Rail Segment, commencing on the date the District provides access to such site and segment and to use the DUS Systems, commencing on the date on which title to the relevant part of the DUS Systems passes to the District, for the purpose of operating and maintaining DUS Rail Segment, upon the terms, covenants and conditions of the Concession Agreement.

The District has agreed that the Company shall peaceably and quietly have, hold and enjoy all parts of the Commuter Rail Network and the Rolling Stock, subject to certain qualifications.

Term of the Concession and Lease Period. Certain provisions of the Concession Agreement became effective upon execution. All of the provisions of the Concession Agreement (with the exception of provisions relating to Phase 2 will become effective on the Phase 1 Effective Date. The Lease Period will also commence on the Phase 1 Effective Date and will end on the date of expiration or early termination of the Concession Agreement, provided that, with respect only to the Rolling Stock, if the Concession Agreement is terminated early, the Lease Period will not end until the District has fully paid the Applicable Termination Amount or December 31, 2044, whichever occurs earlier.

Limited Phase 1 Notice to Proceed and Full Phase 1 Notice to Proceed

The District has agreed to deliver the Limited Phase 1 Notice to Proceed upon satisfaction of the conditions precedent to the Phase 1 Effective Date. If the District fails to deliver such Limited Phase 1 Notice to Proceed within 15 days of the Phase 1 Effective Date, such notice will be deemed to be delivered. Until the delivery of the Full Phase 1 Notice to Proceed, the Company shall carry out only that Phase 1 Work that (a) does not require the Company to enter onto or use the UP Sites and (b) that does not, when taken together with all other Phase 1 Work carried out by the Company, require expenditure by the Company of an amount in excess of the amount specified in the Concession Agreement. When the Company's expenditures reach such specified amount, the Company shall so notify the District, and the District shall, in its sole discretion, (a) increase such specified maximum expenditure amount by an amount that would allow continuation of Phase 1 Work for not less than the succeeding one-month period, (b) order a suspension of the Work (in which case the Company may claim a Relief Event (subject to the provisions of the Concession Agreement applicable to the Relief Events generally), or (c) terminate the Concession Agreement. Any failure of the District to respond within 15 days following delivery of the Company's notice shall

be deemed to be an order to suspend the Work. Upon delivery by the District of the Full Phase 1 Notice to Proceed, the Company shall carry out all Phase 1 Work in accordance with this Agreement. If the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011, either party may terminate the Concession Agreement by 30 days' prior written notice.

Phase 2 Obligations; Consequences of Failure to Achieve Phase 2 Effective Date. The provisions of the Concession Agreement relating to Phase 2 shall come into effect on the Phase 2 Effective Date. Until then, Phase 2 shall not constitute part of the Work or the Commuter Rail Services and the District shall have no obligation for payment, including any Construction Payments and Service Payments, for any work performed by the Company on or in relation to Phase 2. The Phase 2 Effective Date will occur when the District delivers to the Company the Phase 2 Notice to Proceed. The deadline for the delivery of the Phase 2 Notice to Proceed is December 31, 2011 but might be extended by the parties' agreement. If the Phase 2 Notice to Proceed is not delivered on or prior to such deadline, the District shall notify the Company of the location(s) for delivery of the Phase 2 Rolling Stock, and the Company shall either: increase the Maximum Annual Phase 1 Construction Payment Amounts by an amount specified in the Concession Agreement (with such increase to be effective on a date no later than 180 days after deadline for the Phase 2 Effective Date); or request that the Company use its Reasonable Efforts to secure debt financing from the Lenders and equity support from the Shareholders equal to the Phase 1 Excess Financing Amount on terms consistent in all material respects with the Financial Model as at Financial Close and the provisions of the Concession Agreement. If the Company succeeds in securing such financing, it shall notify the District of the terms of such financing and the Additional TABOR Portion Capacity, if any, required to be made available for the Company's exclusive use in accordance with the terms of the Concession Agreement as necessary to achieve such financing. Immediately upon closing of the financing for the Phase 1 Excess Financing Amount on the terms communicated to the District, among other things: the Base Annual Service Payments will be adjusted (upward or downward) to reflect the financial impact of the actual change, if any, in the cost of raising the Phase 1 Excess Financing Amount, on the ability to achieve the Base Case Equity IRR, the same debt service coverage ratio, the same Debt to Equity Ratio, and other reasonable and customary financial ratios as set forth in the Financial Model. If (a) the District does not increase the Maximum Annual Phase 1 Construction Payment Amounts as described above, or (b) the Company is unable to secure funds to finance the Phase 1 Excess Financing Amount within 90 days after the delivery of the District's request, the Company may claim a Relief Event.

Provisions Relating to Financing of Company's Obligations

Security. For the purpose of financing the design, construction, commissioning and completion of the Eagle P3 Project, and the operation and maintenance of the Concessionaire-operated Components, the Company may, with the prior written consent of the District, assign and/or create security over its rights and interests in and under the Concession Agreement (including a leasehold mortgage over the lease granted by the District to the Company), any other Project Agreement, its property, its revenues, its bank accounts, the Intellectual Property Rights (to the extent it is lawfully able to do so under any Applicable Requirement) or any other rights and assets for the benefit of the Lenders, including Owners of the Bonds.

Amendments to Financial Model and Designated Credit Agreements. The District has the right to approve any and all amendments, modifications or of any Designated Credit Agreement that is not consistent in all material respects with the Financial Model. An amendment or other variation of a Designated Credit Agreement, or a waiver of any provision of a Designated Credit Agreement, and certain other actions may also constitute a "Refinancing" and, with the exception of certain transactions, will entitle the District to share in any gain resulting from such Refinancing. The District may elect to receive its share of the refinancing gain in the form of a lump sum payment, a reduction in the Service Payments over the remaining term of the Concession Agreement or a combination of the two. Any adjustment to the Financial Model (other than adjustments which are necessary under certain provisions of the Concession Agreement, such as provisions governing Refinancing or adjustments to Service Payments) is also subject to the District's prior consent.

Cooperation on Future Financing. If so requested by the Company, the District shall use Reasonable Efforts to assist the Company in obtaining federal credit assistance in the form of allocations by the United States Department of Transportation for private activity bonds and/or similar assistance under any other Federal program, but not including loans under the Transportation Infrastructure Finance and Innovation Act or the Railroad Rehabilitation and Infrastructure Financing Program. The District shall, promptly upon the request of the Company

or any Lender, execute, acknowledge and deliver to the Company, or any of the Persons specified by the Company, standard consents and estoppel certificates with respect to the Concession Agreement.

Availability of Construction Sites. The District will, at its own cost, obtain and provide to the Company, Vacant possession of each Site (subject to certain restrictions of use and/or right of entry permits) within the time periods specified in the Concession Agreement. If, during the Design Build Period, the Company requires any additional land (other than temporary construction easements necessary only during the performance of the Work), the Company shall so notify the District and the District will use its best efforts in accordance with applicable Law to obtain and provide to the Company, at the Company's cost, such additional land.

Environmental and Regulatory Matters

General. The Concession Agreement requires the Company to comply with all environmental obligations associated with the Project, including, but not limited to, permitting requirements, environmental impact mitigation requirements and responsibility for site contamination. The Company must also abide by the mitigation measures established in the NEPA review and with the hazardous material procedures as approved by the Colorado Department of Public Health and Environment.

Permitting. The Company and the District share the responsibility for obtaining permits for construction of the Project. The Company must acquire all "permits" required for construction of the project, except for permits specifically allocated to the District. The permits for which the District is responsible have already been obtained. The rest of the permits must be obtained by the Company. Generally, the Company receives no schedule or cost relief if it fails to obtain any permit in a timely fashion. The District will cooperate with the Company in applying for the permits for which the Company is responsible and will, at the Company's request and cost, undertake certain activities to enable the Company to obtain the required permits.

Mitigation of Environmental Impacts on the Project. The Concession Agreement allocates to the Company the responsibility of managing the environmental impacts of the Project. The Company must address temporary construction impacts by developing and implementing a construction management plan that considers air quality protection, noise control, water quality protection, and safety. The Company must also take steps to limit impacts on protected species, such as the black-tailed prairie dog or burrowing owl, and to develop an integrated noxious weed management plan to limit the spread of these plants. Other mitigation required to be performed by the Company include the implementation of hazardous material management measures, including materials, health and safety plan, and an asbestos and lead-based paint survey.

Utilities. The construction Work under the Concession Agreement will require relocation of certain utilities. The Concession Agreement specifies which of the utilities are to be relocated by the Company, by the District or by the respective owner of the utilities. A failure by a utilities owner or by the District to timely relocate a utility for which such person is responsible will be a Relief Event. The discovery of an Unidentified Utility will also entitle the Company to a Relief Event.

Construction and Procurement

The Work. The Company will carry out and complete the Work in accordance with the Concession Agreement, the Project Requirements and Good Industry Practice standards, and the applicable Third Party Agreements of the District, including agreements with the heavy rail operators. The Company shall use Reasonable Efforts to ensure that the Revenue Service Commencement Date for each Commuter Rail Project occurs on or before the applicable Revenue Service Target Date, Final Completion for each Commuter Rail Project occurs on or before the date falling six months after the Revenue Service Commencement Date for such Commuter Rail Project, that the Final Completion Certificate for each Commuter Rail Project is obtained on or before the Final Completion Deadline Date, that each Commuter Rail Project, when commissioned, operates so as to comply with the O&M Standards, and that the Construction Security is appropriately maintained. During the Design Build Period, the Company shall perform certain operations and maintenance activities and comply with and shall ensure that the Project Contractors and each of their Subcontractors comply with certain provisions enumerated in the Concession Agreement. The Company shall provide monthly progress reports to the District and any other related information as

requested by the District. The Work shall not include the procurement and installation of any fare system equipment, which will remain the District's responsibility.

Ownership of Concessionaire-operated Components. Upon the incorporation into the Commuter Rail Network of each part of the Commuter Rail Network (excluding the Sites and the DUS Infrastructure) and completion of all Work related to such part, ownership of and title to such part of the Commuter Rail Network shall immediately and automatically vest in the District free from all encumbrances. Ownership of and title to each part of the Rolling Stock shall vest in the District free from all encumbrances upon delivery of any element of the Rolling Stock to a Site or, in certain circumstances, to the location or locations designated by the District in a prior Phase 2 Rolling Stock Termination Notice.

Suspension of Work. The District will have the right of access to the Sites, and the right to order the suspension of Work: (a) in the event of an emergency that creates an immediate need and serious threat to public health, safety, security or the Environment; (b) where it has reasonable grounds for concluding that damage to any part of the District's existing system, any Site, or any assets owned by any party on any party of any Site or personal injury to the employees or contractors of the District or third parties is likely to result from the continuation of the Work; (c) if the District is notified by a counterparty to a District contract that the Work does not comply with the requirements of such District contract and the District has reasonable grounds for concluding that the basis for such notice's assertions is well founded; or (d) if the District is notified by any governmental authority that the Work is in breach of any applicable Law or permit and the District has reasonable grounds for concluding that the basis for such notice's assertions is well founded.

Construction Payments. During the Design Build Period, the District shall make certain monthly Construction Payments to the Company, subject to certain annual and aggregate caps with respect to Early Work and Phase 1 Work, and Phase 1 and Phase 2 Work combined. The amount of each Construction Payment shall equal the total Earned Value of Work not previously paid, as determined by reference to the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule) and the Schedule of Values based on the Company's progress on the Work. The Construction Payments for Phase 2 also include Phase 2 Financing Cost Payment, which shall not exceed the lesser of Financing Costs accrued under the Designated Credit Agreements and one-twelfth of the Maximum Annual Phase 2 Financing Cost Amount. The District shall, no later than 30 days after the Company's delivery of an application for a Construction Payment, together with all supporting materials, pay to the Company any undisputed amount claimed by the Company in its application, together with 50% of any disputed amount. The annual caps on the Construction Payments are subject to adjustment by pre-determined amounts upon exercise of certain Work scope options by the District or failure to achieve the Phase 2 Effective Date.

Completion

Revenue Service Commencement Dates. The Revenue Service Commencement Date for each Commuter Rail Project shall be the date on which the Revenue Service Commencement Requirements have been satisfied, as certified by the Independent Engineer. Revenue Service Target Dates have been identified in the Concession Agreement.

Revenue Service Deadline Date. The Revenue Service Deadline Date will be January 1, 2018 or as amended in accordance with the terms of the Concession Agreement.

Final Completion Dates. The Final Completion Date for each Commuter Rail Project shall be the date on which the Final Completion Requirements for such Commuter Rail Project have been satisfied, as certified by the Independent Engineer.

Final Completion Deadline. Final Completion Deadline Date is the date falling 24 months after the last Revenue Service Commencement Date (as it may be amended by the parties' agreement).

Operation and Maintenance

Operating Period. The Company shall begin operation of each Commuter Rail Service on the Revenue Service Commencement Date for such Commuter Rail Service or on such later date as the District may require; provided that the Service Payment shall not be reduced to reflect any impact to the Availability Ratio or the accrual of any Performance Deductions arising solely as a result of the District's requirement for operation by the Company of a Commuter Rail Service to begin after the Revenue Service Commencement Date for such Commuter Rail Service. The Company shall also be responsible for the dispatch of all Heavy Rail Movements. The Company will operate the Commuter Rail Services and operate and maintain the Concessionaire-operated Components throughout the Operating Period in compliance with the specified requirements.

Maintenance and Repairs. The Company will at all times maintain, keep in good operating repair and condition and renew, replace and upgrade to the extent reasonably necessary, the Concessionaire-operated Components and any part thereof. The Company shall carry out all maintenance and repairs to the Concessionaire-operated Components at the Company's own cost and in accordance with the applicable standards and in a manner that causes the minimum amount of disruption to the operation of the Concessionaire-operated Components, to the District and to the counterparties to the District's Third Party Agreements. The Concessionaire-operated Components should, upon expiration, have the residual life specified in the Concession Agreement.

District Intervention. In certain circumstances, the District may immediately intervene in the operation and maintenance of the Concessionaire-operated Components and take such reasonable action as it considers necessary, including issuing directions to the O&M Contractor, in order to prevent, mitigate or eliminate an immediate and serious risk to health, safety, security or the environment or otherwise to ensure the safety of the passengers. The District may for this purpose enter into any part of the Concessionaire-operated Components or the Site, for such period as is necessary and take over all or any part of the operation and maintenance of the Concessionaire-operated Components.

Electrical Energy. The Company shall ensure the connection of the Commuter Rail Network to the power network in accordance with the applicable requirements and shall ensure the supply of any electrical power required for the performance of the Work and the operations and maintenance of the Commuter Rail Network and the Rolling Stock. The Company shall pay for all electrical power used in the performance of the Work and for operations and maintenance of the Commuter Rail Network (except with respect to traction power, for which the District will be largely responsible, subject to certain cost-sharing and efficiency incentive arrangements).

Collection and Determination of Fares. The District shall be responsible for, and shall have all the necessary rights to effect, the supply, installation, testing, operation and maintenance of the fare system equipment and shall be primarily responsible for the collection of all fares, with a possible exception for the fare system equipment which might be required to be carried by the Company's personnel in its performance of the fare enforcement obligations in accordance with the O&M Specifications. The District will determine in its sole discretion the level and structure of fares, ticketing and all other aspects of generating fare revenue. The District shall have all rights, title and interest in all fare revenue collected with respect of the use of the Commuter Rail Network and all rights relating to advertising on the Concessionaire-operated Components.

Service Payments

Calculation of Service Payments. From the first Revenue Service Commencement Date, the Company shall become entitled to payment of the Service Payment for the applicable Commuter Rail Service on a calendar monthly basis calculated based on a fixed base monthly amount for each of the Commuter Rail Services, adjusted for the Availability Factor and Performance Deductions, among other adjustments. A portion of the Service Payments is indexed to a blended inflation rate tied to the CPI, labor and materials indices. The Availability Factor is based on the Availability Ratio which, in turn, is comprised of the Rolling Stock Availability, the On Time Availability and the Station Availability for the applicable month, which, for the purpose of determining the Service Payment amount, will be calculated on a system-wide basis. The District shall make the Service Payments based on the Company's invoices. The District's obligation to make the Service Payment is divided into the TABOR Portion and the RTD Appropriation Obligation. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "PAYMENTS UNDER THE CONCESSION AGREEMENT—RTD Appropriation

Obligations" for the description of the TABOR Portion and the RTD Appropriation obligation portions of the Service Payments.

The Company's Right and Obligation to Suspend Service. Subject to certain conditions, if the District reasonably anticipates that the RTD board of directors (the "Board") will not include any RTD Appropriation Obligations that are payable or expected to be payable during the following Fiscal Year in the District's annual budget for such Fiscal Year, the Company (a) will be required to suspend the Work or, in the case of a partial shortfall of the RTD Appropriation Obligations, may suspend the Work and/or (b) shall suspend or partially suspend operation of the Concessionaire-operated Components from the date of such notice to the extent and in the manner directed by the District. If the Board fails to include any RTD Appropriation Obligations that are payable or expected to be payable pursuant to the Concession Agreement for the following Fiscal Year in its annual budget for such Fiscal Year, the Company shall suspend or may partially suspend, as applicable, performance by the Company of the Work and/or shall suspend or partially suspend, as applicable, operation of the Concessionaire-operated Components on January 1 of the Fiscal Year for which adequate funds to meet such RTD Appropriation Obligations have not been included in such annual budget. Each suspension described in this paragraph shall be treated as an RTD Proposed Change. During any period of suspension or partial suspension, the Company may continue to submit Invoices to the District with respect to the TABOR Portion up to a maximum amount equal to the Service Payment that would have been payable in the absence of such suspension (minus certain avoidable costs which are not being incurred by the Company during such period of suspension) and, in the event of a partial suspension only, any other portion of the Service Payment that remains payable and for which the Board has included funds in the District's annual budget for such Fiscal Year.

Rolling Stock Replacement. The Company will be obligated to undertake certain actions and otherwise use its Reasonable Efforts, as requested by the District, to assist the District in procuring the replacement Rolling Stock for use by the District on the Project following the Expiry Date.

Company Indemnity. The Company will fully indemnify and hold harmless the District and the District's agents, servants, consultants and employees and, to the extent required by the Project Agreements, the Project Third Parties and their respective agents, servants, consultants and employees from and against all Losses and/or Claims (excluding any Losses of, or Claims for, lost revenue to the District resulting from a failure to collect passenger fares) arising out of or in connection with any act or omission of the Company or its agents, servants, consultants or employees in connection with the Concession Agreement and the other Project Agreements or breach thereof or any willful misconduct of the Company or its agents, servants, consultants or employees. The Company will not be liable to indemnify the District or the Project Third Parties or their agents, servants, consultants or employees for any Losses and/or Claims, to the extent that they have been fully and effectively indemnified by the proceeds of insurance carried under the Concession Agreement or otherwise in accordance with the terms of any Third Party Agreement or other agreement between the Company and, as the case may be, the relevant Project Third Party or any of its agents, servants, consultants or employees.

Changes

Company Proposed Changes. The Company shall have the right to suggest a change to the Final Project Design, the Design, Construction and Rolling Stock Requirements or the O&M Specifications, the procedures relating to the Handover and Reinstatement Work Requirements and certain other matters. The Company-proposed changes are subject to consent by the District at its discretion.

RTD Proposed Changes. At any time the District wishes to implement any type of a change or alteration specified in the Concession Agreement, the District shall be entitled to submit a written request in respect of such change or alteration to the Company at the District's own cost, which request shall specify whether the District shall, or reserves the right to, require the Company to seek funding for such change. The Company shall respond to the District indicating whether it has any objection to carrying out the proposed change, its estimated "not to exceed" cost of such change, such change's expected impact on the then-current baseline schedule for Work or on operation and maintenance activities, which have been passed down to the O&M Contractor, and any other relevant information. If the District chooses to proceed with the proposed change, the Company shall prepare a more comprehensive report, which will include the full details of the proposed change implementation and its additional costs (to be paid by adjustment to the Service Payments) and anticipated impact on schedule of Work and operation

and maintenance activities. If the District agrees with the Company's analysis and directs the Company to implement the change, the Company will be entitled to claim the Relief Event and be paid the stipulated compensation. If the District disagrees with the Company's analysis, it can direct a third party contractor to implement the change, subject to certain conditions. In addition, the District may request that the Company use its Reasonable Efforts to seek financing for the change from the Company's Lenders or other third party funders. If the Company is unable to secure such financing, the Company shall be obligated to implement the change only to the extent the District has provided funding for such change.

Change in Law. Any Change in Law will entitle the Company to claim a Relief Event, and to receive from the District the reimbursement for the Incurred Costs resulting from such Change in Law (subject to certain deductions, unless the Change in Law constituted a Discriminatory Change in Law). The payment by the District of the Incurred Costs will be made by adjustment to the Service Payments. The District may elect to require the Company to provide funding for any Change in Law Change. If the District makes such election, the Company shall request from the Lenders, including Owners of the Bonds, or other third party funders or financial institutions the provision of funds to finance the changes required by any Change in Law Change. The District has agreed the Lenders, including Owners of the Bonds, may refuse the provision of any such funding in their sole discretion and that the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for implementing any Change in Law Change.

Relief Events

Relief for Relief Events. The Company will be entitled to schedule relief and compensation for certain costs incurred as a result of a Relief Event. During the Design Build Period, where the performance of the Work has been delayed as a result of the occurrence of a Relief Event during the Design Build Period, the dates for any Revenue Service Target Date, the Revenue Service Deadline Date and/or the Final Completion Deadline Date shall be extended to reflect the impact of the Relief Event on the critical path of the Work. If the occurrence of any Relief Event during the Design Build Period prevents the Company from achieving the Revenue Service Commencement Date in respect of a Commuter Rail Service, then the Revenue Service Commencement Date for such Commuter Rail Service shall be deemed to have occurred for the purposes of the payment of the Service Payment, but for no other purposes, on the date on which the Revenue Service Commencement Date would have occurred but for the Relief Event. During the Operating Period, the Company shall not suffer any impact to the Availability Ratio or accrue any Performance Deductions as a result of the Relief Event where the events giving rise to the Relief Event would, absent such Relief Event, have caused such impact to the Availability Ratio to arise or such Performance Deductions to accrue. During either the Design Build Period or the Operating Period, the Company shall be entitled to claim, and be paid by the District, the Incurred Costs actually incurred by it as a result of the impact of such Relief Event on the Company's performance of the Concession Agreement, and any additional work it is required to carry out as a result of the applicable Relief Events. There is a separate relief mechanism for relief in connection with a Change or Work Order.

Adjustments to the Service Payment. Following the occurrence of any Relief Event that results in the Company incurring additional capital expenditure or funding, an adjustment to the Service Payment for such Commuter Rail Service will be made in order to restore the respective economic position of the Parties as set out in the Financial Model immediately prior to such occurrence or payment, as the case may be, and, in the case of a Change, to ensure that the Company suffers no reduction in revenue or net income as a result of carrying out such Change. Any Incurred Costs payable by the District shall be paid by the District by direct lump sum payment or by an adjustment to the Service Payments as soon as possible following the occurrence of the Relief Event; provided that the amount and timing of such adjustment shall be determined by reference to the Financial Model so as to maintain the debt service coverage ratios (and/or other financial ratios) required to be maintained under the Designated Credit Agreements. The District may elect to require the Company to provide funding for any Incurred Costs payable by the District. If the District makes such election, the Company shall request from the Lenders or other third party funders or financial institutions the provision of funds to finance such Incurred Costs. The District has agreed that the Lenders may refuse the provision of any such funding in their sole discretion and that the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for any such Incurred Costs. The Company shall use its Reasonable Efforts to comply with any conditions to funding placed by the Lenders (which includes Owners of the Bonds), including requesting equity support from the Shareholder, it being understood that the Shareholders may refuse the provision of any such

funding in their sole discretion and that in such a case the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for any such Incurred Costs. If the Lenders or the Shareholders refuse to provide any funding for the implementation of any such Incurred Costs, the District shall provide funding for the implementation of such Incurred Costs or otherwise adjust the manner described above.

Force Majeure Events. Force Majeure Events generally include events outside the reasonable control of the Affected Party, and which was not reasonably foreseeable by the Affected Party as at the date of the Concession Agreement, where such event materially and unavoidably prevents or delays the Affected Party from performing any of its obligations under the Concession Agreement. None of parties will be liable for any failure to comply, or delay in complying, with any obligation under or pursuant to the Concession Agreement to the extent that such failure or delay is caused directly by a Force Majeure Event, provided that no such relief may be claimed in respect of any obligation to pay any amounts that may from time to time become owing thereunder. If occurring during the Operating Period, the District shall continue to pay the Service Payment without deduction in respect of the effects of the Force Majeure Event, and the Company shall not suffer any impact to the Availability Ratio or accrue any Performance Deductions as a result of the Force Majeure Event, where the events giving rise to the Force Majeure Event would, absent a Force Majeure Event, have caused such impact to the Availability Ratio to arise or such Performance Deductions to accrue. If occurring during the Design Build Period, where the performance of the Work has been delayed as a result of the occurrence of a Force Majeure Event, the dates for any Revenue Service Target Date, the Revenue Service Deadline Date and/or the Final Completion Deadline Date shall, to the extent necessary, be extended as agreed by the parties to reflect the impact of the Force Majeure Event on the critical path of the Work. If the occurrence of a Force Majeure Event or Force Majeure Events during the Design Build Period prevents the Company from achieving the Revenue Service Commencement Date for a Commuter Rail Service, then the relevant Revenue Service Commencement Date shall be deemed to have occurred for the purposes of the payment of the Service Payment, but for no other purposes, on the date on which the Revenue Service Commencement Date would have occurred but for the Force Majeure Event or Force Majeure Events, as applicable, for such Commuter Rail Service.

Termination of the Concession Agreement

Concessionaire Termination Events. The Concessionaire Termination Events include the following, among others:

(a) the Company fails to commence the Work within four months after the Phase 1 Effective Date;

(b) the Revenue Service Commencement Certificate in respect of any Commuter Rail Service is not, or there is no reasonable prospect of it being, issued on or before the Revenue Service Deadline Date;

(c) the Final Completion Certificate in respect of any Commuter Rail Project is not, or there is no reasonable prospect of it being, issued on or before the Final Completion Deadline Date;

(d) the Company abandons the Work and (i) the Company expressly declares in writing that it will not resume the Work or (ii) such abandonment continues for 90 consecutive days without prior written consent of the District;

(e) certain bankruptcy-type proceeding involving the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period) or the O&M Contractor (during the Operating Period);

(f) the operation of the Concessionaire-operated Components by the Company in a manner violating applicable Law or the Concession Agreement and endangering the safety of passengers following a written notice from the District outlining such safety concerns;

(g) any failure by the Company to obtain and maintain sufficient committed funding for the Eagle P3 Project (i) during the Design Build Period or (ii) after the last Final Completion Date, in the event there are any

material cost overruns for which the Company is required to secure funding which failure to obtain and maintain sufficient committed funding would, with the passage of time, reasonably be expected to result in a separate Concessionaire Termination Event, in either case (i) or (ii), which failure has not been remedied by the Company within a period of 90 days following its occurrence;

(h) the Design Build Contract is terminated during the Design Build Period, the Rolling Stock Supply Contract is terminated during the Design Build Period or the Operating Period and/or the O&M Contract is terminated during the Operating Period and the Company has not entered into a replacement O&M Contract or Design Build Contract or, as the case may be, the Design Build Contractor has not entered into a replacement Rolling Stock Supply Contract, in any such case, with a reputable counterparty reasonably acceptable to the District within 90 days following the date of termination of the Design Build Contract and/or the O&M Contract and/or within 60 days following the termination of the Rolling Stock Supply Contract (as applicable);

(i) the Company fails to comply in any material respect with specified provisions of the Concession Agreement;

(j) any of the Project Agreements other than the Concession Agreement:

(i) ceases to be in full force and effect or no longer constitutes the valid, binding and enforceable obligations of the Parties thereto other than the District (other than due to the termination of such Project Agreement, or an involuntary bankruptcy event or a voluntary bankruptcy event, in each case as defined in such Project Agreement); or

(ii) is materially amended, varied or departed from (other than in accordance with the Concession Agreement),

and this materially adversely affects the ability of the Company to perform its obligations under the Concession Agreement, or any right of the District under the Concession Agreement or its ability to enforce any such right, or to perform its obligations under the Concession Agreement;

(k) the Availability Ratio of any Commuter Rail Service (treating the Gold Line Service and the Northwest Rail Electrified Segment Service as a single Commuter Rail Service for purposes of clause (ii) below) is less than (i) 80% in two or more months between the applicable Revenue Service Commencement Date and the applicable Final Completion Date or (ii) 85% in six or more months of any eight-month period (provided in each case that a single, continuous event lasting no more than 30 days extends across two calendar months and directly causes the Availability Ratio in both such months to fall below 80% or 85%, as applicable, shall be deemed to have resulted in an Availability Ratio less than 80% or 85%, as applicable, in the first such month only);

(l) the Performance Deduction Percentage exceeds 3% of the Adjustable Base Service Payment for the relevant month in six or more months of any eight-month period; and

(m) any breach of any other material obligations of the Company under the Concession Agreement (but only to the extent such breach (i) is not the subject of Performance Deductions, (ii) has not resulted in any impact on the Availability Ratio and (iii) is not otherwise the subject of penalties or deductions under the Concession Agreement) or any written repudiation of the Concession Agreement by the Company.

Consequences of a Concessionaire Termination Event. Subject to the terms of the Lenders' Direct Agreement and the applicable cure periods, upon the occurrence of a Concessionaire Termination Event and so long as such event is continuing, the District may (a) in the case of certain Concessionaire Termination Events, serve notice of default on the Company and require the Company to (i) remedy the breach specified in such notice of default within a certain specified time period or (ii) propose within twenty (20) days following such notice of a default a reasonably detailed remedial plan, or (b) in the case of certain other Concessionaire Termination Events, terminate the Concession Agreement with immediate effect (among other available remedies).

RTD Termination Events. The RTD Termination Events include the following:

(a) other than as a result of any failure to appropriate (by inclusion in its annual or any interim budget) moneys for the purposes of the RTD Appropriation Obligations, the District fails to pay any undisputed amount within 10 days after the due date;

(b) the Board fails, by the end of a Fiscal Year, to make an appropriation (by inclusion in its annual or any interim budget) of moneys for the purposes of the RTD Appropriation Obligations (other than any Applicable Termination Amount) pursuant to the Concession Agreement in an amount sufficient to fund the RTD Appropriation Obligations (other than any Applicable Termination Amount) estimated to fall due, or that have fallen due, during such Fiscal Year;

(c) a Discriminatory Change in Law or a Change in Law, but only where the District is not providing compensation to the Company to compensate it for the effects of the Discriminatory Change in Law or Change in Law, as required by the terms of the Concession Agreement; and

(d) the obligations of the District under the Concession Agreement are or become illegal, unenforceable, void or voidable, and as a result, the District is or becomes unable to perform its material obligations under the Concession Agreement.

Consequences of an RTD Termination Event. Subject to specified cure periods, upon the occurrence of an RTD Termination Event, the Company may terminate the Concession Agreement in its entirety.

Termination for Extensive Force Majeure or Failure to Deliver the Full Phase 1 Notice to Proceed. Either party has the right to terminate the Concession Agreement in the case of an Extensive Force Majeure by a 7-day notice to the other party, or if RTD has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011. In addition, RTD has the right to terminate the Concession Agreement if, in the absence of the Full Phase 1 Notice to Proceed, the Company has given a notice of the expenditures on Work exceeding the amount that the Company is allowed to spend on Work prior to the delivery of the Full Phase 1 Notice to Proceed, as described above.

Compensation Following Termination. See APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT—Applicable Termination Amount" for the description of various amounts which will be due and payable by the District in the case of an early termination of the Concession Agreement. Any Applicable Termination Amount shall be due and payable by the District 60 days after the Termination Date. To the extent not paid by the District 60 days after the Termination Date, on each anniversary of the Termination Date, certain components of the Applicable Termination Amount shall be re-calculated, while other components shall accrue interest at specified rates. No default interest shall accrue on any the RTD Default Amount, Concessionaire Default Amount or FM Termination Amount other than with respect to certain components as determined and set forth in the Concession Agreement.

Financing of the Applicable Termination Amount. Unless the Applicable Termination Amount is paid by the District in full 60 days after the Termination Date, from the Termination Date and until the Expiry Date, the District shall pay to the Company in respect of the Applicable Termination Amount the TABOR Portion in accordance with the Trustee's Instructions during the applicable calendar year for which TABOR Portion amounts are set forth in the Concession Agreement, pro rata on a monthly basis during such calendar year on the fifth Business Day of each month during such calendar year in an aggregate amount (together with any Additional TABOR Portion amounts or other amounts paid by the District to the Company in respect of the Applicable Termination Amount) not to exceed the Applicable Termination Amount. Following the Expiry Date (if the District has not paid the Applicable Termination Amount in full to the Company) and only until the District has paid the Applicable Termination Amount in full to the Company, the payment of such Applicable Termination Amount shall continue to be secured by the pledge of the RTD Pledged Revenues and the Trustee's Instructions and the District shall continue to pay to the Company that portion of the Applicable Termination Amount which on the Expiry Date was secured as the TABOR Portion and any Additional TABOR Portion. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "PAYMENTS UNDER THE CONCESSION AGREEMENT—RTD Appropriation Obligations" for the description of the Additional TABOR Portion.

Handover and Reinstatement Work Requirements on the Expiry Date. The Company shall, on the Expiry Date, hand over and, to the extent not already owned by the District, transfer ownership of title to the

Concessionaire-operated Components free of all Encumbrances and free of charge to the District in a condition which could reasonably be expected of an equivalent commuter rail system which has been in existence and operated for a period equal to the period during which the relevant Commuter Rail Project has been operated and which has been maintained in accordance with the O&M Standards during that period and is capable of complying with the O&M Standards (as amended pursuant to the terms of the Concession Agreement) for a period of (i) with respect to the Commuter Rail Network, not less than three years and (ii) with respect to the Rolling Stock, not less than one year, in each case, from the Expiry Date.

Dispute Resolution. Generally, the disputes between the parties under the Concession Agreement will be resolved first, by mediation, by the Dispute Resolution Panel, and, finally, by either litigation in the District Court of Colorado (for disputes involving amounts equal to or in excess of U.S. $25,000,000) or binding arbitration (for disputes involving lesser amounts).

Design Build Contract

The Company and the Design Build Contractor will enter into the Design Build Contract, pursuant to which substantially all of the construction work relating to the Project will be undertaken by the Design Build Contractor, on a turnkey lump-sum fixed price basis.

Scope of Work. Subject to limited exceptions specified in the Design Build Contract, the Design Build Contractor's scope of work includes all work and services required or appropriate in connection with the design, engineering, procurement, including procurement of the Rolling Stock, review of the Sites and rights to use such Sites, procurement of additional land and any required real estate rights additional to the rights to use the Sites, Site preparation, construction, installation, commissioning, start up, demonstration, testing and completion of the Project, as well as provision of all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to complete and deliver to the Company the fully integrated and operational Eagle P3 Project such that the Company or the O&M Contractor may operate and maintain the Eagle P3 Project.

Back-to-Back Obligations. Under the Design Build Contract, the Design Build Contractor has assumed and is required to comply with, on a back-to-back basis, all of the Company's obligations and liabilities set forth in the Concession Agreement to the extent they relate to the design, construction, installation and completion of the Project (other than those that the Company is prohibited by the Concession Agreement from delegating to the Design Build Contractor), and such obligations and liabilities are deemed included as part of the Design Build Contractor's obligations under the Design Build Contract. The Design Build Contract is not intended to, and does not, relieve the Company of its obligations under the Concession Agreement.

Performance Standards. The Design Build Contractor is required to comply with, and cause the Work and the Project (including the design, engineering, construction, testing and start up of each Commuter Rail Project and all equipment included within such project) to comply with, Good Industry Practice, the Applicable Requirements, the Applicable Standards, the Project Requirements, the Design Build Contract and the other Contract Documents and to construct and erect the Project in a good and workmanlike manner.

Project Sites. Under the Concession Agreement, the District has agreed to obtain and provide Vacant Possession of each part of each Site at the District's cost within the time periods specified in the Concession Agreement. Upon receipt from the District, the Company will provide such Vacant Possession to the Design Build Contractor for purposes of performance of the Work, at which point the Design Build Contractor will have sole responsibility for such part of the Site. The Design Build Contractor may claim a scope change order in respect of a Relief Event if such Vacant Possession of any portion of any Site is not granted within the required time period. Should the Sites and the rights to use them not be sufficient for the Design Build Contractor to undertake and complete the Work in accordance with the Design Build Contract, the Design Build Contractor's rights against the Company are limited to such relief as is granted by the District to the Company under the Concession Agreement.

Site Conditions. The Design Build Contractor is entitled to claim a scope change order in respect to a Relief Event for the discovery of specified site conditions to the extent permitted by the Design Build Contract and

only to the extent the District provides relief to the Company for such event under the Concession Agreement, subject to limited exceptions.

Company's Right to Carry Out Work. If the Design Build Contractor defaults or neglects to carry out the Work in accordance with the requirements of the Design Build Contract or if there are defects or deficiencies in the Work that the Design Build Contractor refuses or neglects to repair after receipt of notice from the Company to correct such default, neglect, defect or deficiency with diligence and promptness, the Company may correct same and deduct from the scheduled payments then or thereafter due the Design Build Contractor the out-of-pocket cost of correcting such default, neglect, defect or deficiency or the Design Build Contractor will pay the difference to the Company if the scheduled payments are not sufficient to cover such costs.

Compensation. The lump sum fixed price payable to the Design Build Contractor for the performance of the Work if the Early Work commencement date has occurred but the Phase 1 Work commencement date does not occur is $9,611,801. If the Phase 1 Work commencement date has occurred but the Phase 2 Work commencement date does not occur, the lump sum fixed price is $1,003,071,140. Finally, if the Phase 2 Work commencement date has occurred, the lump sum fixed price payable to the Design Build Contractor is $1,269,196,983, which represents compensation in full for the performance of the Early Work, the Phase 1 Work and the Phase 2 Work. Only compensation for performance of the Phase 2 Work is subject to an adjustment equal to 98.5% of any adjustments to the maximum annual Phase 1 and Phase 2 construction payment amounts made for indexed inflation pursuant to the formulas set forth in the Concession Agreement from March 2010 until the Phase 2 Work commencement date. Other than for inflation, the contract sum is not subject to adjustment for any reason except pursuant to a scope change order authorized by the Company or to which the Design Build Contractor is entitled to claim as specified in the Design Build Contract.

Limitation on Design Build Contractor's Liability. The maximum aggregate liability of the Design Build Contractor pursuant to the Design Build Contract must not exceed 45% of the contract sum. This limitation excludes the Design Build Contractor's liability for: (a) the proceeds of insurance limited to the amounts required to be maintained by the Design Build Contractor pursuant to the Design Build Contract; (b) costs, and liabilities arising from gross negligence, willful misconduct or actual fraud of the Design Build Contractor, abandonment of the Work or the Design Build Contractor's default relating to, among other things, insolvency and the failure to pay undisputed amounts due and owing; (c) the Design Build Contractor's breach of its obligation to pass to the District title to the Project free and clear of all liens, claims and other security interests; (d) the Design Build Contractor's indemnity obligations; or (e) sums paid by the Design Build Contractor to the O&M Contractor under the Interface Agreement.

Completion Deadlines and Recovery Plans. The Design Build Contractor is required to achieve the Revenue Service Commencement Date for each Commuter Rail Service and the associated Commuter Rail Project no later than five (5) months prior to the Revenue Service Deadline Date. The Design Build Contractor is also required to achieve the final completion date for each Commuter Rail Project on or before the Final Completion Deadline Date, which is 15 months after the final Revenue Service Commencement Date. In addition, if the District requires the Company to commence the performance of the Early Work before the Phase 1 effective date and the Company, in turn, requires the Design Build Contractor to do same, the Design Build Contractor is required to complete the Early Work on or before the Early Work completion deadline date, which is the later of December 31, 2012 and the date that is 30 months after the Early Work commences.

If there is no reasonable prospect that the Design Build Contractor will achieve the Revenue Service Commencement Date for any Commuter Rail Project no later than five (5) months prior to the Revenue Service Deadline Date or any material design build milestone by the then-effective target completion date, the Design Build Contractor will prepare a reasonable recovery plan, subject to the Company's approval, to cause the Revenue Service Commencement Date to be achieved by the required deadline or otherwise cure the deficiency.

Liquidated Damages. If the Design Build Contractor has not achieved the Revenue Service Commencement Date with respect to any of the Commuter Rail Projects by January 29, 2016 for the East Corridor Service, July 1, 2016 for the Gold Line Service and March 31, 2016 for the Northwest Rail Electrified Segment Service, then for each calendar day (or portion of a calendar day) that the Design Build Contractor fails to achieve

the Revenue Service Commencement Date after such dates the Design Build Contractor will pay the Company liquidated damages equal to the foregone revenue of the Concessionaire after that date.

The Design Build Contractor's liability for the above-described delay damages is capped at 10% of the contract sum but the Design Build Contractor may continue paying such damages exceeding the cap if the Company agrees to forestall exercise of its termination right during the period to be agreed by the Company and the Design Build Contractor.

The Design Build Contractor shall be entitled, after the final Revenue Service Commencement Date has been achieved with respect to the Commuter Rail Projects, to a cash rebate in the amount of the delay damages paid to the Company in excess of (i) the aggregate interest and principal paid or payable on the Bonds, (ii) the aggregate Monthly Operator's Fees and Renewal Work Payments paid under the O&M Contract, (iii) all reasonable costs and expenses of the Company, including those attributable to any delay in achieving revenue service commencement, and (iv) any equity distributions that have been or will be foregone as a result of any such delay in achieving revenue service commencement, in each case, during the period commencing on the Revenue Service Target Date of the East Corridor Service and continuing through and including the date of the final Revenue Service Commencement Date to occur with respect to the Commuter Rail Services.

The Design Build Contractor must also pay certain liquidated damages that may be payable by the Company pursuant the Concession Agreement for each calendar day (or portion of a calendar day) that the Early Work completion date occurs after the Early Work completion deadline date. These delay damages may not exceed 5% of the sum of the maximum annual Early Work construction payment amounts set forth in the Concession Agreement; however, the Design Build Contractor's failure to perform due to shortages in personnel, materials and equipment will not be considered excusable.

The Design Build Contractor also agrees to pay or reimburse the Company for liquidated damages that may be payable to the District by the Company in accordance with the Concession Agreement, in connection with the delivery and commissioning of Rolling Stock Option Cars as a result of a delay attributable to the Design Build Contractor, in the amounts assessed by the District and as of the dates that such damages are due and payable by the Company to the District under the Concession Agreement.

Guaranty. On the date of the execution of the Design Build Contract, the Design Build Contractor will provide a parent company guaranty in favor of the Company from each of Fluor Corporation, Balfour Beatty, LLC and Balfour Beatty plc., respectively, in the form agreed in the Design Build Contract, guaranteeing all the obligations of the Design Build Contractor under the Design Build Contract.

Performance Security. As security for the performance by the Design Build Contractor of the Company's obligations under the Concession Agreement relating to the Early Work, the Design Build Contractor will provide the District, after the District requests same to be provided to it under the Concession Agreement, with either a bond or a letter of credit satisfying the requirements set forth in the Design Build Contract. Such security must be in place until the Early Work is completed or the Design Build Contractor provides construction security described below, whichever occurs first.

On or before the Phase 1 Work commencement date, the Design Build Contractor will provide the Company, as partial security for the obligations of Denver Transit Constructors, LLC (the Design Build Contractor's subcontractor) and the Design Build Contractor's obligations under the Design Build Contract, with a bond in the form agreed in the Design Build Contract in favor of the District, the Company, the Design Build Contractor and the Trustee for the benefit of the Owners of the Bonds as obligees in a penal amount equal to not less than the greater of (a) 50% of the total Earned Value of the Work to be performed under the respective subcontract and the Design Build Contract in any calendar year and (b) 5% of the total Earned Value for all Work not yet performed under such subcontract and the Design Build Contract, in each case calculated in accordance with the Design Build Contract. The Company will provide such bond to the District in order to satisfy the obligation to provide the construction security required under the Concession Agreement.

In addition, on the effective date of Phase 1, the Design Build Contractor will provide the Company with an on-demand letter of credit in the form agreed in the Design Build Contract in an amount of 6% of the contract sum

as partial security for payment by the Design Build Contractor of all sums to the Company, including the liquidated damages payable to the District under the Concession Agreement, and for the Design Build Contractor's full and timely performance under the Design Build Contract. By no later than the 10th business day following the Phase 2 Work commencement date, the amount of such letter of credit must be increased to 6% of the contract sum as at the Phase 2 Work commencement date. As of the Revenue Service Commencement Date for the East Corridor Project so long as the Design Build Contractor is not in default under the Design Build Contract, the amount of the letter of credit may be reduced to 3% of the contract sum, to remain in place until the last final completion date of the Commuter Rail Project or the Final Completion Deadline Date, as applicable. Thereafter, the Design Build Contractor is required to procure and maintain a warranty bond equal to 10% of the contract sum until the later of the expiration of the last warranty period or the resolution of any open warranty claims.

Scope Changes. Subject to compliance with applicable procedures and other terms and conditions set forth in the Design Build Contract, the Design Build Contractor is entitled to a scope change order arising from (a) delays caused by the events that qualify under the Concession Agreement as Relief Events to the extent permitted by the Design Build Contract, (b) certain changes in law that constitute a Discriminatory Change in Law or has a Change in Law Effect, the effects of which cannot be overcome by the Design Build Contractor in the absence of incurring material costs or impacting the critical path, (c) specified force majeure events and (d) events caused by the Company that adversely affect the Design Build Contractor's performance of the Work, the effects of which cannot be overcome by the Design Build Contractor in the absence of incurring material costs of impacting the critical path. The Design Build Contractor will be entitled to any benefit accruing from a Relief Event solely to the extent and at such times as the Company has actually received the same benefit from the District pursuant to the Concession Agreement.

Warranties. The Design Build Contractor warrants and guarantees to the Company and the District, during the warranty periods specified in the Design Build Contract for each of the Commuter Rail Projects, that the design for the Project will comply with the requirements of the Design Build Contract, the Concession Agreement and the Project Requirements; all Work will be of good quality and conform to Good Industry Practice, the Applicable Requirements, the Applicable Standards and the Project Requirements free of defects in material, equipment and workmanship and the completed Work shall be free of defects (including latent defects) and deficiencies in design, materials, equipment and workmanship; the Rolling Stock will be new or good quality and conform to the Applicable Requirements, the Applicable Standards and the Project Requirements free of defects in material, equipment and workmanship; and the final as-built drawings and documentation will be accurate and complete and will comply with applicable Contract Documents and accurately reflect the condition of each Commuter Rail Project as of the applicable final completion date.

Company's Right to Withhold Payments. The Company has the right to withhold payments to the Design Build Contractor for several reasons, including due to the Design Build Contractor's failure to pay its subcontractors, the occurrence of an event that would permit termination for cause by the Company and its continuance beyond the applicable cure period and the District's failure to pay the Company any construction payment under the Concession Agreement allocable to the scheduled payment to the Design Build Contractor.

Company's Right to Suspend the Work. In addition to the Company's right to suspend performance or completion of all or any part of the Work resulting from the Company's failure to satisfy certain conditions precedents under the Designated Credit Agreement, if the District reasonably anticipates that the board of directors of the District will not appropriate sufficient funds that are payable or expected to be payable during the following fiscal year in the District's annual budget for such fiscal year (and the expected shortfall is not related to any proposed changes that would suspend or partially suspend the Work), the Design Build Contractor must suspend Work (or, in the case of a partial shortfall, may suspend the Work to the extent and in the manner directed by the District) as soon as reasonably practicable under the circumstances until the Company notifies it that amounts relating to the shortfall have been included in the District's annual budget for such fiscal year. Any such suspension or partial suspension will be treated as a scope change proposed by the District. The Design Build Contractor will also be required to suspend the performance of the Work if the District's board of directors fails to include any appropriation obligations with respect to the Project that are payable to the Company under the Concession Agreement for the following fiscal year in its annual budget for such fiscal year and such suspension will be treated as an proposed change by the District to the Work.

District's Right to Suspend the Work. The District is entitled under the Concession Agreement to order the suspension of any part of the Work under the circumstances specified in the Concession Agreement. The Design Build Contractor is required to fully cooperate with the District in its exercise of such suspension rights.

Termination Rights

Termination for Design Build Contractor's Event of Default. Subject to applicable cure periods specified in the Design Build Contract, the Company may terminate the Design Build Contract for the following Design Build Contractor's events of default: (a) liquidation or reorganization; (b) non-payment of undisputed amounts by the Design Build Contractor to the Company; (c) non-payment of the amounts owed by the Design Build Contractor to its subcontractors; (d) non-compliance by the Design Build Contractor in any material respect with any requirements for the performance of the Work; (e) failure by the Design Build Contractor to obtain the revenue service commencement certificate for any Commuter Rail Project no later than 5 months prior to the deadline (or if the independent engineer certifies that there is no reasonable prospect of the Design Build Contractor obtaining such certificate within such time), or to achieve the final completion date for any Commuter Rail Project by the applicable Final Completion Deadline Date; (f) failure by the Design Build Contractor to deliver or diligently implement a recovery plan; (g) abandonment of the Work for a period of 30 consecutive days; (h) failure to provide or maintain in effect any of the performance securities or guaranties in the amount and terms required that is not remedied within 5 days following notice; (i) failure to comply with any material insurance-related requirements; (j) failure to commence the Work within 10 days following the Phase 1 Work commencement date; (k) any of the representations or warranties of the Design Build Contractor are proven to have been materially untrue or incorrect when made to the extent that such breach of representation or warranty has a material adverse effect on the Work or the Project as a whole or the interests of the Company; (l) a change in control of the Design Build Contractor or Rolling Stock Supply Contractor occurs or is proposed to occur (other than any such change resulting from a bona fide open market transaction in securities effected on a recognized public stock exchange) and the District requests termination of the Design Build Contract pursuant to the Concession Agreement; (m) any Design Build Contractor's subcontract ceases to be in full force and effect or is amended in any material respect, subject to limited exceptions specified in the Design Build Contract and to the extent set forth in the Design Build Contract; (n) the Rolling Stock Supply Contract is terminated during the design-build period and the Design Build Contractor has not entered into a replacement contract on substantially similar terms with a reputable counterparty reasonably acceptable to the Company and the District; and (o) the Design Build Contractor is otherwise in default of any other provision of or has failed to perform obligations under the Contract Documents.

If the Company terminates the Design Build Contract pursuant to any of the events of default described above, the Design Build Contractor shall be liable to the Company for the costs reasonably incurred by the Company in replacing the Design Build Contractor to complete the Work and all direct damages suffered or incurred by the Company as a result of such termination.

District's Termination of the Concession Agreement. If the District terminates the Concession Agreement as a result of a breach by the Design Build Contractor of its obligations under the Design Build Contract, the Design Build Contractor will compensate the Company for any damages incurred by the Company as a result of such termination, including return of (but not return on) any equity invested in the Company and any amounts required to be paid by the Company to the Financing Parties in respect of the financing of the Project as a result of such termination. The Design Build Contract will terminate upon any termination of the Concession Agreement by the District due to a Company event of default.

Termination for Company's Event of Default. Subject to applicable cure periods specified in the Design Build Contract, the Design Build Contractor may terminate the Design Build Contract for any of the Company's events of default: (a) bankruptcy, insolvency or other debtor relief proceeding, (b) failure by the Company to pay to the Design Build Contractor any portion of an undisputed scheduled payment (unless such failure results from the failure of the District to make any corresponding payment due under the Concession Agreement) and (c) only if relief cannot be provided by issuance of a scope change order, the Company's default of its other material obligations under the Contract Documents. Any right of the Design Build Contractor to terminate the Design Build Contract is subject to all cure rights of the District under the Concession Agreement and of the Financing Parties. In the event the Design Build Contractor terminates the Design Build Contract due to any of the events of default described above, the Company is required to pay the termination payment to the Design Build Contractor consisting

of the portion of the contract sum due to the Design Build Contractor for the Work completed up to the termination date and any subcontractors' breakage costs (but only to the extent such breakage costs have been received by the Company from the District). The termination payment is also payable to the Design Build Contractor by the Company if the Concession Agreement is terminated as a result of a Company's event of default under the Concession Agreement that was not caused by the Design Build Contractor.

Other Termination. The Design Build Contract will automatically terminate if a Force Majeure Event has occurred under the circumstances specified in the Design Build Contract. The Design Build Contract will also automatically terminate in the event the Concession Agreement is terminated as a result of an RTD Termination Event as contemplated in the Concession Agreement, or as a result of a termination by either the District or the Company pursuant to the Concession Agreement if the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011. In addition, the Design Build Contract will automatically terminate as a result of the termination of the Concession Agreement by the District if the District elects not to increase the specified maximum value in effect from the time the Limited Phase 1 Notice to Proceed is issued by the District until the Full Phase 1 Notice to Proceed is issued. If the Design Build Contract is terminated pursuant to any of the events described in this paragraph, the Company will pay the Design Build Contractor the applicable termination payment, if due pursuant to the Design Build Contract.

For a more detailed summary of the major provisions of the Design Build Contract, see APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT."

O&M Contract

The Company and O&M Contractor will enter into the O&M Contract, pursuant to which substantially all of the operation, maintenance and renewal works relating to the Project will be undertaken by the O&M Contractor.

Scope of Services. Other than certain limited excluded services, the O&M Contractor will perform or cause to be performed any and all services required or appropriate in connection with the operations and maintenance of the Project, including certain pre-operations services and certain specified operations services during the Design Build Period, and will provide all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to perform such services (collectively, the "Services"). The O&M Contractor is not required to perform the Services pertaining to the Gold Line Project or the Northwest Electrified Segment Project if the Phase 2 Effective Date is not achieved by the Phase 2 Conditions Precedent Satisfaction Date, and the Company will have no obligation to the O&M Contractor to make any payments relating to such Services. The operating term will expire on December 31, 2044, unless the O&M Contract is terminated earlier in accordance with its terms.

Back to Back Provisions. Except as otherwise expressly provided in the O&M Contract, the O&M Contractor will assume and comply with all obligations and liabilities set forth in the Concession Agreement to the extent that they relate to the Services on a back-to-back basis (other than those that the Company is prohibited by the Concession Agreement from delegating to the O&M Contractor), and such obligations and liabilities are deemed to be included as part of the O&M Contractor's obligations under the O&M Contract.

Performance Standards. The O&M Contractor will perform and cause its subcontractors to perform the Services in accordance with (a) the Concession Agreement and the Third Party Agreement, (b) the requirements of all applicable laws and permits, (c) the final Project design, the operating and maintenance specifications in the Concession Agreement, environmental requirements and health, safety and security requirements, (d) an operating plan and all other plans and procedures required to be prepared and/or complied with by the Company in accordance with the operating and maintenance specifications in the Concession Agreement, (e) the "Small Business Enterprises" program requirements in the Concession Agreement, and (f) good industry practice. In addition, the O&M Contractor will operate and maintain the Project in a manner reasonably calculated (i) to minimize Performance Deductions and Service Task Orders, (ii) to maximize the Availability Ratio, and (iii) to minimize, consistent with the preceding clauses (i) and (ii), the costs and expenditures required to operate and maintain the Project.

Mobilization and Testing. The O&M Contractor will participate and cooperate in all commissioning, testing, verification and start-up activities with respect to each Commuter Rail Project, including, at the Design Build Contractor's request, performing discrete components of the commissioning and testing or demonstration, providing start-up personnel and providing feedback to the commissioning and start-up plans, procedures, reports and documentation. Specifically, the O&M Contractor will be responsible for the achievement by each Commuter Rail Project of certain performance requirements measured by Availability Ratio tests prior to the Final Completion Deadline Date; provided that the O&M Contractor will be excused from any failure to achieve the final completion requirements if the failure results from a failure of the Design Build Contractor to comply with its obligations under the Design Build Contract.

Project Sites. From the Revenue Service Commencement Date for each Commuter Rail Project through the end of the operating period, the O&M Contractor will be solely responsible for the project sites pertaining to that Commuter Rail Project and the ongoing maintenance thereof. The O&M Contractor accepts the project sites (including the geotechnical, climatic, hydrological, ecological, environmental and general conditions of the sites, the nature of the ground and subsoil, the form and nature of such sites, the risk of injury or damage to property near to or affecting each such sites and to occupiers of such property, Utilities and other structures on or near the sites) on an "as is, where is" basis, and the O&M Contractor will not be excused from the performance of the Services, and will not be entitled to additional compensation, for any reason relating to the condition of the sites except as otherwise provided as a Relief Event under the O&M Contract.

O&M Contractor-Caused Hazardous Materials. The O&M Contractor will be responsible for both the cost and implementation of all clean-up, remediation, removal, disposal and mitigation of Hazardous Materials in, on or under the project sites which is caused by or attributable to any acts or omissions of the O&M Contractor or any of its subcontractors in accordance with the requirements of the O&M Contract and the Concession Agreement. During the period of any clean-up or mitigation activities, the O&M Contractor will continue the Services to the maximum extent possible on unaffected parts of the Project and areas of the project sites.

Review and Monitoring; Remedial Action Plan. If, during the operating period (a) the Availability Ratio of any Commuter Rail Service is less than an average of 95% for four or more months of any rolling six-month period, (b) the Performance Deduction Percentage exceeds an average of 2.0% of the Adjustable Base Service Payment for four or more months of any rolling six-month period, or (c) a Persistent Condition exists, then in each such case, the O&M Contractor, at the Company's request, will be required to meet with the Company to review the O&M Contractor's operational procedures for the Project and to consider in good faith any recommendations made by the Company for changes to the operations and maintenance of the Project that the Company believes would be expected to enhance reliability or improve operation of the Project. If, during the operating period (a) the Availability Ratio of any Commuter Rail Service is less than an average of 90% for four or more months of any rolling six-month period or (b) the Performance Deduction Percentage exceeds an average of 2.3% of the Adjustable Base Service Payment for four or more months of any rolling six-month period, then in each case, the Company may require the O&M Contractor to submit a reasonable remedial plan to the Company, which remedial plan must be approved by the Company and the Technical Advisor. Failure to diligently implement the remedial plan will constitute an O&M Contractor event of default.

Compensation. The O&M Contractor will be paid a monthly operator's fee for the full and timely performance of the Services, such fee to be calculated in accordance with the methodologies set forth in Exhibit I attached to the O&M Contract. Generally, the calculation of the monthly operator's fee will track the calculation of and adjustments to the Service Payments under the Concession Agreement. The O&M Contractor will be responsible for submitting an invoice every month in the form and with the supporting materials required by the District or the Company.

The O&M Contractor will be paid the monthly operator's fee only to the extent that the Company has first received from the District under the Concession Agreement the corresponding Service Payment (or the portion thereof corresponding to such monthly operator's fee) applicable to the corresponding Services performed by the O&M Contractor. In addition, the Service Payments paid by the District to the Company under the Concession Agreement will be the sole source of funds that will be used to pay the O&M Contractor the monthly operator's fees, and the aggregate monthly operator's fees payable in any given calendar year during the operating period will not exceed certain maximum amounts fixed for that year as set forth in Exhibit I to the O&M Contract. Any

performance or availability deductions from the Service Payment from Design Build will be applied as a deduction to the Operator's Fee. Any failure of the Company to pay the Monthly Operator's Fee due to the O&M Contractor will not constitute a breach or default by the Company to the extent resulting from the failure by the District to make the corresponding Service Payments (or portion thereof corresponding to such monthly operator's fee) where such failure does not result from a delay, breach or failure of the Company; provided, however, that in such event, the O&M Contractor will have the right to require the Company to commence procedures to terminate the Concession Agreement and, absent a cure by the District of the failure to pay, terminate the Concession Agreement in accordance with its terms. The Company may elect to make direct payment to the O&M Contractor the amounts which the District has failed to pay, in which case the O&M Contractor's rights as described in the preceding provision will not apply and the O&M Contractor will continue performance of its obligations under the O&M Contract.

Renewal Works. Subject to satisfying the invoicing and other requirements set forth in the O&M Contract, the O&M Contractor will be entitled to monthly payments from the Company representing the fixed amount of Renewal Work costs set forth for such month in a Renewal Work Budget and Schedule submitted by the O&M Contractor (as such amount may be adjusted as permitted under the O&M Contract). The O&M Contractor will be paid the Renewal Work payments only to the extent that the Company has first received from the District under the Concession Agreement the corresponding Service Payment (or the portion thereof corresponding to such Renewal Work payment) applicable to the corresponding Services performed by the O&M Contractor. In addition, the Service Payments paid by the District to the Company under the Concession Agreement will be the sole source of funds that will be used to pay the O&M Contractor the Renewal Work payments. Any failure of the Company to pay the Renewal Work payments due to the O&M Contractor will not constitute a breach or default by the Company to the extent resulting from the failure by the District to make the corresponding Service Payments (or portion thereof corresponding to such Renewal Work payment) where such failure does not result from a delay, breach or failure of the Company. The O&M Contractor is responsible for funding all Renewal Work costs to the extent the Renewal Work payments are not sufficient to pay Renewal Work costs incurred or Renewal Work is performed at times other than as scheduled in the Renewal Work Budget and Schedule.

The O&M Contractor will be required to procure an on-demand letter of credit as security for the performance of the Renewal Works if at any time commencing with the year in which the first scheduled element of Renewal Work is to be performed, and continuing through the year in which all the Bonds have been repaid in full, the events described in the following clauses (a), (b) and (c) have occurred:

(a) the amount equal to (i) the costs set forth in the Forecast Renewal Work Schedule for such year less (ii) the costs set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars) less (iii) the amount on deposit in the Renewal Work Account as at January 1 of such year, if a positive number, exceeds the greater of (A) $1,000,000 or (B) ten percent (10%) of the cost of Renewal Works set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars);

(b) the amount then remaining undrawn in the O&M Letter of Credit less the dollar amount (if a positive number) calculated under clause (i) above is less than an amount equal to 75% of the Required Security Amount; and

(c) the Availability Ratio of any Commuter Rail Service was less than 91% in four or more calendar months in any rolling six-month period in the previous year, or the Performance Deduction Percentage exceeded 2.3% of the Adjustable Base Service Payment for the relevant month in four or more months in any rolling six-month period in the previous year.

The amount of the letter of credit will be equal to 100% of the amount calculated in accordance with clause (a) above with respect to such year and with a stated expiration of not earlier than one year from the issuance date.

So long as no default or O&M Contractor event of default has occurred and is continuing and the O&M Contractor is not subject to increased review and monitoring by the Company under the O&M Contract, the O&M Contractor is entitled to withdraw funds from the Renewal Work Account annually without having to expend such withdrawn funds on Renewal Work, but solely to the extent that the O&M Contractor has demonstrated to the Company and the Technical Advisor that amounts to be paid to the O&M Contractor over the next five years for

Renewal Work pursuant to the Renewal Work Budget and Schedule, plus funds remaining in the Renewal Account following any withdrawal as described in this paragraph, is sufficient to meet expenditures anticipated by the then-current forecast of Renewal Works, and the Technical Advisor has not reasonably objected to such calculations.

The Company will hold a first-priority security interest in amounts held in the Renewal Work Account. The Company will be entitled to instruct the transfer of control of the Renewal Work Account following the occurrence and continuance of an O&M Contractor event of default (or a default that, with the passage of time or the giving of notice or both, will become an O&M Contractor event of default) unless such event of default or default is cured.

Performance Security

Guaranty. Fluor Corporation, a Delaware corporation, Balfour Beatty, LLC, a Delaware limited liability company, and Balfour Beatty, plc, a public limited company organized under the laws of England, will each execute and deliver a guaranty as security for the performance of the O&M Contractor's obligations under the O&M Contract.

O&M Letter of Credit. As security for the full and timely performance of its obligations under the O&M Contract, the O&M Contractor shall provide to the Company, not later than the first Revenue Service Commencement Date to occur (or, if earlier, after such time as neither Fluor Corporation nor Balfour Beatty, plc has a long-term credit rating of at least "BBB" or "Baa2" from at least one of Moody's Investors Services, Inc., Standard & Poor's Rating Services or Fitch Ratings, Inc.), an on-demand letter of credit in the amount of $22,659,628, adjusted annually for inflation (the "Required Security Amount"), issued by a Qualifying Institution (the "O&M Letter of Credit"). Upon (a) the last Final Completion Date for a Commuter Rail Service to occur and (b) the end of the last Warranty Period to expire, the O&M Letter of Credit will be replenished, to the extent previously drawn, to an amount equal to the then applicable Required Security Amount. The Company will be named as beneficiary of the O&M Letter of Credit, but the Company may assign its rights thereunder to the Trustee as collateral security for the benefit of the Owners of the Bonds. The O&M Letter of Credit will be maintained until the end of the 25th calendar year following the year in which the operating period has commenced. Thereafter, subject to the repayment in full of all the Bonds, the O&M Contractor will either (a) replace the O&M Letter of Credit with a performance bond issued by a Qualifying Insurer in a penal amount no less than 50% of the Required Security Amount or (b) renew or replace the outstanding O&M Letter of Credit with one or more replacement letters of credit in a face amount equal to 50% of the Required Security Amount. Such replacement security will be maintained until the later of (a) six months after the end of the operating period and (b) such date on which the O&M Contractor has completed all of its obligations under the O&M Contract to the Company's satisfaction. If warranty claims remain unresolved as of the date the O&M Letter of Credit or the replacement security is otherwise permitted to expire, the O&M Letter of Credit or the replacement security will continue to remain in effect at a reduced amount equal to 150% of the cost reasonably estimated by the Company to correct such warranty claims.

Limitation on Liability. The maximum aggregate liability of the O&M Contractor in contract, tort, equity or otherwise (including negligence, warranty, strict liability or otherwise) in connection with the O&M Contract is limited to an amount equal to $67,978,884, adjusted annually for inflation. The limitation on liability does not apply to the following, among other exceptions: (a) the proceeds of insurance, (b) bankruptcy of the O&M Contractor or abandonment of the Services by the O&M Contractor, (c) the O&M Contractor's indemnity obligations, (d) any deductions to any payment of the Monthly Operator's Fee arising from or attributable to any impact to the Availability Ratio or the accrual of Performance Deductions, (e) any interest due and payable from the O&M Contractor to the Company arising from the O&M Contractor's failure to pay amounts otherwise due, (f) the O&M Contractor's liability for costs and expenses resulting from defects to the Design Build Contractor's work for the period from the expiration of the applicable warranty period through the end of the statute of repose period mandated by applicable law and (g) sums paid by the O&M Contractor to the Design Build Contractor under the Interface Agreement.

Warranty. The Services will be performed by qualified personnel, any repair or replacement of parts or components as part of the Services will be performed in a workmanlike manner using good quality components and materials, respecting the common commuter rail operator industry practices, and the Services will satisfy the required performance standards described in the O&M Contract. In addition, commencing from the expiration of

the applicable warranty period under the Design Build Contract and through the end of the statute of repose period mandated by applicable law, the O&M Contractor will be responsible for all costs and expenses resulting from defects, including latent defects, to the Design Build Contractor's work.

Modifications. Subject to compliance with applicable procedures and other terms and conditions set forth in the O&M Contract, the Company or the O&M Contractor is entitled to seek a modification to the scope of Services and/or an adjustment to the Monthly Operator's Fee and/or payment or reimbursement of costs and expenses to account for the impact of any Concessionaire Proposed Change, any RTD Proposed Change, any Change in Law Change and any other Relief Event, any proposed deviation from the Project requirements or any delay, breach or failure caused by the Company that delays or disrupts the O&M Contractor's performance of the Services or increases the cost to the O&M Contractor of performing the Services. The O&M Contractor will be entitled to any benefit accruing from a Relief Event solely to the extent and at such times as Concessionaire has actually received the same benefit from the District pursuant to the Concession Agreement.

Suspension of Services for the District Failure to Appropriate. The O&M Contractor will be required to suspend or partially suspend its Services in the manner directed by the District in the event the District reasonably anticipates that the Board will not include any RTD Appropriation Obligations that are payable or expected to be payable during the following Fiscal Year in the District's annual budget for such Fiscal Year or if the Board in fact fails to include any RTD Appropriation Obligations that are payable to the Company under the Concession Agreement for the following Fiscal Year in its annual budget for such Fiscal Year. Any such suspension or partial suspension will be treated as a RTD Proposed Change. During any period of suspension or partial suspension in which the Company is paid the TABOR Portion of Service Payments, such TABOR Portion will first be allocated to pay debt service then outstanding under the Bonds, with no portion of the TABOR Portion to be applied to the payment of any amounts owing to the O&M Contractor until the debt service on the Bonds then outstanding have been paid in full.

Termination Rights

O&M Contractor Events of Default. Subject to applicable cure periods, the Company is entitled to terminate the O&M Contract for a number of reasons, including but not limited to: (a) the Availability Ratio of any Commuter Rail Service (treating the Gold Line Service and the Northwest Electrified Rail Segment as a single Commuter Rail Service) is less than 89% in five or more calendar months of any rolling seven-month period; provided that a single, continuous event lasting no more than 30 days extending across two calendar months and directly causing the Availability Ratio in both such months to fall below 89%, shall be deemed to have resulted in an Availability Ratio of less than 89% in the first such month only; (b) the Performance Deduction Percentage exceeds 2.9% of the Adjustable Base Service Payment for the relevant month in five or more calendar months of any rolling seven-month period; (c) with respect to any Commuter Rail Project, the requirements for Final Completion for which the O&M Contractor is responsible are not fulfilled; (d) the O&M Contractor or any Guarantor, as applicable, fails to provide or maintain in effect the letter of credit or parent guaranty, as applicable, required under the O&M Contract; (e) the O&M Contractor fails to make payments due to its subcontractors; (f) the O&M Contractor fails to comply with any material insurance requirement; and (g) the O&M Contractor breaches its obligations in respect of the "disadvantaged and small business enterprises" requirements set forth in the O&M Contract.

If the Company terminates the O&M Contract for any O&M Contractor event of default and/or the District terminates the Concession Agreement in accordance with the terms thereof and such termination is a result of a breach by the O&M Contractor of its obligations under the O&M Contract, the O&M Contractor is responsible for paying the following amounts to the Company: (a) costs reasonably incurred by the Company in replacing the O&M Contractor to perform the Services, (b) all direct damages suffered or incurred by the Company as a result of such termination and/or the acts or omissions of the O&M Contractor leading to such termination, including, where the Concession Agreement has not been terminated, the costs and expenses reasonably attributable to the employment of a different operator to fulfill the O&M Contractor's obligations and services, and any loss of Service Payment attributable to any delay in the achievement of the Revenue Service Commencement Date of any Commuter Rail Project as a result of such termination, (c) any damages incurred by the Company in respect of a failure by the O&M Contractor to properly fulfill the residual lifecycle requirements of the Concessionaire-operated Components in accordance with the terms of the Concession Agreement, and (d) any damages, costs and expenses suffered or

incurred by the Company under the Concession Agreement, the Bond financing documents (including principal, interest and other amounts payable thereunder) or any other related agreement as a result of such termination.

Concessionaire Events of Default. Subject to applicable cure periods and all cure rights of the District under the Concession Agreement and of the Trustee pursuant to its direct agreement with the Company and the O&M Contractor, the O&M Contractor is entitled to terminate the O&M Contract for the following reasons: (a) bankruptcy or insolvency proceeding of the Company, (b) failure by the Company to make payment of any undisputed amounts to the O&M Contractor, and (c) only if relief cannot be provided by issuance of a modification thereunder, the Company otherwise is in default or has failed to perform any of its other material obligations under the O&M Contract.

In the event the O&M Contractor terminates the O&M Contract as described above, the Company will pay the following amounts to the O&M Contractor as the O&M Contractor's sole and exclusive remedy: (a) Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor and (b) Operator Breakage Costs.

District Termination of Concession Agreement. If the District terminates the Concession Agreement as a result of a breach by the Company (and not a result of a breach by the O&M Contractor), the Company will pay the O&M Contractor the O&M Contractor termination payments in an amount equal to (a) the Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor, and (b) Operator Breakage Costs, as the O&M Contractor's sole and exclusive remedy, and hold the O&M Contractor completely harmless for any damages or claims incurred by the O&M Contractor as a result of such termination. To the extent the District terminates the Concession Agreement as a result of a breach by the O&M Contractor of its obligations under the O&M Contract, the O&M Contractor will compensate the Company for any damages incurred by the Company as a result of such termination, which damages will include return of (but not return on) any equity invested in the Company and any amounts required to be paid by the Company to the Owners of the Bonds which is due and payable as a result of such termination.

Other Termination. Without prejudice to any other provision of the O&M Contract, and subject to the payment in full by the Company to the O&M Contractor of termination payments equal to the sum of (a) the Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor, and (b) Operator Breakage Costs, as the O&M Contractor's sole and exclusive remedy, the O&M Contract will automatically terminate and have no further force and effect in the event of certain Extensive Force Majeure Events (as defined in the Concession Agreement) and in the event the Concession Agreement is terminated as a result of an "RTD Termination Event" as defined in the Concession Agreement, or as a result of a termination by either the District or the Company for the District's failure to issue a Full Phase 1 Notice to Proceed by December 31, 2011 pursuant to Section 5.13(b) of the Concession Agreement, or as a result of a termination by the District if it elects not to increase the Maximum Limited Phase 1 Work Value pursuant to Section 5.13(c) of the Concession Agreement. Operator Breakage Costs will be payable to the O&M Contractor in connection with a termination for an Extensive Force Majeure Event and an RTD Termination Event only to the extent the corresponding "Subcontractor Breakage Costs" payable in respect of the "RTD Default Amount" or the "FM Termination Amount" (each as defined in the Concession Agreement), as applicable, (i) are received by the Company from the District, (ii) such amounts are incurred by the O&M Contractor under arrangements and/or agreements that are consistent with terms that have been entered into in the ordinary course of business and on commercially reasonable terms, and (iii) the O&M Contractor and any relevant subcontractor have each used its reasonable efforts to mitigate such amounts.

For a more detailed summary of the major provisions of the O&M Contract, see APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT."

Interface Agreement

Generally. The Interface Agreement has been executed among the Company, the Design Build Contractor and the O&M Contractor and sets forth terms by which the Design Build Contractor and the O&M Contractor will

effectively cooperate and coordinate with each other in the performance of their respective obligations under the Design Build Contract and the O&M Contract.

Under the Interface Agreement, each Contractor agrees that the performance or nonperformance of the other Contractor will not be a defense available to the first Contractor for its own breach or failure to perform its obligations under its Contract, and that, except as otherwise expressly provided in the Interface Agreement or its Contract, each Contractor will not be excused from performing its obligations under its Contract and will not be entitled to any relief as a result of any act, omission, performance or non-performance by the other Contractor. The Contractors agree to a division of responsibility between them prior to the start of revenue service of the Project as set out in the Interface Agreement.

Coordination Committee. The parties will establish a coordination committee and meet monthly in an endeavor to achieve efficiencies in the review of Design Documents, the processing of Changes that are reasonably expected to affect both Contractors, the achievement of Revenue Service Commencement and Final Completion for each of the Commuter Rail Projects, the resolution of issues as they arise from time to time, and the development of plans and reports that require joint participation.

Acknowledgment of the District's Rights. The parties acknowledge certain of the District's rights to suspend the Work and to take certain other actions in the event of a "Concessionaire Termination Event" (as defined in the Concession Agreement) under the Concession Agreement, and the parties will fully cooperate with the District in its exercise of these rights.

Design Work; Changes. The O&M Contractor will have a consultative role in respect of engineering and design work required to be undertaken to complete the Work performed by the Design Build Contractor. The O&M Contractor is entitled to provide feedback on any Design Document in accordance with the procedures set out in the Interface Agreement if the O&M Contractor believes that such Design Document has or is reasonably likely to have an adverse impact upon the cost, implementation or other aspect of the Services or where there is a potential value engineering benefit. The O&M Contractor will be obligated to provide feedback to any Design Document if it believes it is inconsistent with the operating specifications and requirements. If the O&M Contractor's feedback identifies any non-compliance of a Design Document with the requirements of the Concession Agreement, the Design Build Contractor will be required to amend such Design Document to make it compliant. Subject to that, the Design Build Contractor is not obligated to implement the O&M Contractor's comments if they would reasonably be expected to result in a material increase in the cost of performing the Work or a material delay to the Project Schedule or to the achievement of any milestone dates; provided that if it is determined that the Design Document was in fact inconsistent with the operating specifications and requirements and such fact resulted in increased costs to the O&M Contractor, the Design Build Contractor will be responsible to the O&M Contractor for all such increased costs. Notwithstanding the foregoing, the District's approval of a Design Document or any determination made under the dispute resolution procedures of the Concession Agreement with respect thereto will be determinative of any matter relating to such Design Document among the parties to the Interface Agreement.

Each Contractor will notify the other Contractor if it reasonably believes that a proposal for a Concessionaire-proposed change to its Contract or a Change (as defined in the Concession Agreement) will result in a change to the other Contract, and Concessionaire may take such overlap into account when negotiating the change under the Contracts. In addition, the Contractors and Concessionaire will coordinate with each other to determine whether the act, event or condition necessitating any requested scope change or modification, as applicable, will need to be addressed with a corresponding change or adjustment to the other Contract.

Interface During Design Build Period

Commissioning. The Design Build Contractor and the O&M Contractor will coordinate its efforts in the commissioning, testing, verification, start-up and demonstration of each Commuter Rail Project, including rectifying any discrepancies in test results or any failures or deficiencies that arise from the commissioning and demonstration process, with the cost and expense of any such rectification to be borne by the Design Build Contractor unless the discrepancy, failure or deficiency was directly caused by the acts or omissions of the O&M Contractor. Subject to the resolution of any related dispute between the Contractors, the O&M Contractor will reimburse the Design Build Contractor for delay liquidated damages paid by the Design Build Contractor and for increases in the Design Build

Contractor's direct costs, in each case to the extent that any failure by the O&M Contractor to perform its obligations under the O&M Contract caused or contributed to a delay in the achievement of Revenue Service Commencement for any Commuter Rail Project. Subject to the resolution of any related dispute between the Contractors, the Design Build Contractor will reimburse the O&M Contractor for increases in the O&M Contractor's direct costs to the extent that any action or inaction of the Design Build Contractor or any failure by the Design Build Contractor to perform its obligations under the Design Build Contract or the Interface Agreement has caused or contributed to a delay in the achievement of any Revenue Service Commencement Date for any Commuter Rail Project. The Design Build Contractor will reimburse the O&M Contractor for increases in the O&M Contractor's direct costs to the extent that any action or inaction of the Design Build Contractor or any failure by the Design Build Contractor to perform its obligations under the Design Build Contract has caused or contributed to a delay in the achievement of any Revenue Service Commencement Date for any Commuter Rail Project. In addition, subject to the provisions of the Interface Agreement, the O&M Contractor will be entitled to recover from the Design Build Contractor its increased direct costs incurred prior to the actual achievement of any Revenue Service Commencement Date for any Commuter Rail Project to the extent that the Design Build Contractor is responsible for a material change in the schedules and time frames set forth in the Interface Agreement.

Availability Ratio Testing. The O&M Contractor will use all diligent efforts to operate the Project in a manner that will satisfy the Availability Ratio tests required as a condition to achieving Final Completion for each Commuter Rail Project under the Design Build Contract within the deadlines afforded under the project schedule, and the cost and expense of any efforts to rectify a situation that could cause the Availability Ratio tests to not be satisfied will be borne by the O&M Contractor except to the extent caused or contributed to by the acts or omissions of the Design Build Contractor under the Design Build Contract. Subject to the resolution of any related dispute under the Interface Agreement, the O&M Contractor will indemnify the Design Build Contractor from and against any liability of the Design Build Contractor to Concessionaire to the extent any act or omission of the O&M Contractor in the performance of the Services has caused or contributed to the Design Build Contract being terminated for the Design Build Contractor's default.

Amendments to Design Build Contract. Except to the extent required to comply with the Concession Agreement or applicable law, the Design Build Contractor and the Company will not, without the prior reasonable written consent of the O&M Contractor, agree to any amendments, supplements, scope changes or other modifications to the Design Build Contract that are reasonably expected to have a material adverse impact on the rights or obligations of the O&M Contractor under the O&M Contract, unless such material adverse impact has been compensated for or otherwise remedied by a modification to the O&M Contract.

Interface During Operating Period

Defects. Until the end of the applicable Warranty Period under the Design Build Contract, on discovering a defect or deficiency in the Design Build Contractor's Work, or a condition that could reasonably likely be or become such a defect or deficiency, the O&M Contractor will be entitled promptly to correct or otherwise remedy the defect or deficiency at the Design Build Contractor's sole cost if the condition creates an emergency resulting in an immediate need and serious threat to public health, safety, security or the environment. If the defect or deficiency does not create an emergency, but the O&M Contractor has reason to believe that the failure of the Design Build Contractor or the responsible subcontractor to make the correction or repair may have an impact on the O&M Contractor's ability to achieve Final Completion or Performance Deductions have begun to accrue or the Availability Ratio has been impacted or the Project has begun to accumulate STOP Points, then the O&M Contractor may nevertheless remedy the defect or deficiency at the Design Build Contractor's sole cost. Any dispute as to a defect or deficiency, including disputes as to the extent of the Design Build Contractor's liability will be resolved in accordance with dispute resolution procedures provided in the Interface Agreement.

Amendments to O&M Contract. Except to the extent required to comply with the Concession Agreement or applicable law, the O&M Contractor and the Company will not, without the prior reasonable written consent of the Design Build Contractor, agree to any amendments, supplements or modifications to the O&M Contract that are reasonably expected to have a material adverse impact on the rights or obligations of the Design Build Contractor under the Design Build Contract, unless such material adverse impact has been compensated for or otherwise remedied by a scope change order to the Design Build Contract.

Claims between the Design Build Contractor and the O&M Contractor

O&M Contractor Indemnity. The O&M Contractor will indemnify and hold harmless the Design Build Contractor from and against (a) all damages arising out of losses to the extent covered by the proceeds of insurance insuring the O&M Contractor, (b) all damages arising out of losses arising out of fraud, criminal conduct, intentional misconduct, recklessness or bad faith on the part of the O&M Contractor, (c) all liability of the Design Build Contractor to Concessionaire for liquidated damages or failure to obtain the Revenue Service Commencement Date by the applicable target dates to the extent caused by a breach of the O&M Contractor under the O&M Contract and (d) all liability of the Design Build Contractor to Concessionaire arising out of termination of the Design Build Contract to the extent caused by a breach by the O&M Contractor of its obligations under the O&M Contract, except, in each case, to the extent caused, or contributed to, by any act or omission of the Design Build Contractor. Any amount recovered under this indemnity will not be subject to or subtracted from the maximum liability of the O&M Contractor set out in the O&M Contract.

Design Build Contractor Indemnity. The Design Build Contractor will indemnify and hold harmless the O&M Contractor from and against (a) all losses to the extent covered by the proceeds of insurance insuring the Design Build Contractor and (b) all losses arising out of fraud, criminal conduct, intentional misconduct, recklessness or bad faith on the part of the Design Build Contractor, except, in each case, to the extent caused, or contributed to, by any act or omission of the O&M Contractor. Any amount recovered under this indemnity will not be subject to or subtracted from the maximum liability of the Design Build Contractor set out in the Design Build Contract.

Prohibition Against Claims. Except as specified in the indemnities described above and each Contractor's liability for costs as provided in the Interface Agreement, each Contractor will not bring against the other Contractor any action, cause of action, suit, proceeding, claim, demand or complaint, whether at law or in equity, which the first Contractor may have with respect to any matter relating to a breach by the other Contractor of its Contract or any loss suffered or incurred by the first Contractor by reason of or relating to any act or omission of the other Contractor.

Amounts Not Subject to Maximum Liability. No amounts paid under the Interface Agreement by the Design Build Contractor or the O&M Contractor will apply to the limitation of liability applicable to the relevant Contractor under its respective Contract, nor will any such amounts be paid out of any security provided by the relevant Contractor under its respective Contract.

Termination. In the event either of the Contracts is terminated but the Concession Agreement has not been terminated, the Interface Agreement will be terminated as regards the Contractor whose Contract has been terminated (subject to liability of the Contractor accrued under the Interface Agreement prior to such termination), and if Concessionaire enters into a new contract with another contractor for any aspect of the Work or Services, as the case may be, which has been terminated, Concessionaire will cause such contractor to enter into an agreement on terms substantially similar to the terms of the Interface Agreement. In the event the Concession Agreement is terminated, the Interface Agreement will automatically terminate; provided that if the District, in the exercise of its "step-in" rights under the Concession Agreement, directs the Contractors to enter into a new interface agreement on terms substantially similar to the Interface Agreement, the Contractors will do so.

Rolling Stock Supply Contract

Scope of Rolling Stock Supply Contract. The Design Build Contractor has entered into a Rolling Stock supply contract with Hyundai Rotem USA Corp. (the "Rolling Stock Supplier"). The Rolling Stock Supplier will supply all adequate and competent labor, supervision, spare parts, tools, equipment, installed and consumable materials, services, testing devices and warehousing and each and every item of expense necessary for the supply of the Rolling Stock, including the design, manufacture, assembly, delivery to site, testing and commissioning, support for the commencement of revenue service and maintenance training for new Electric Multiple Unit (EMU) commuter rail passenger cars.

The base order of Rolling Stock for the East Corridor Project, the Gold Line Project and Northwest Electrified Segment Project is 50 individual Cars. In addition, the Design Build Contractor has an option to

purchase between 2 and 10 additional Cars and, pursuant to the Rolling Stock Option (as defined in the Concession Agreement) set forth in Section 31.1 of the Concession Agreement, an additional 8 to 24 additional Cars. The Cars are required to be suitable in all respects for commuter rail operation at speed limits up to 79 mph, on both dedicated track and track shared with freight service. The Rolling Stock must be capable of reliably providing revenue service in accordance with the operational requirements of the Concession Agreement, including, but not limited to, run times, passenger carrying capacity and loading standards.

Consistency with Design Build Contract. Generally, the Rolling Stock Supply Contract contains terms and provisions in relation to technical requirements, completion and acceptance criteria, relief events and other allocations of cost and risk that are consistent with the Design Build Contract.

Contract Price. The Rolling Stock Supplier will be paid a lump-sum with respect to the base order of 50 Cars. Such amount will be paid in progress payments (i.e., a fixed percentage of the amount on a per-Car basis) based on the achievement of specified milestones. The contract price for the base order of 50 Cars, together with spares, tools, equipment, etc. and 24 Rolling Stock Option Cars (assuming option for 24 is exercised) is $270,608,508.00.

Damages for Delay; Limitation on Liability. The Rolling Stock Supplier is liable for damages suffered or incurred by the Design Build Contractor caused by a delay to the achievement of the Revenue Service Commencement Date of any Commuter Rail Project beyond the applicable Revenue Service Target Date that is attributable to a default by the Rolling Stock Supplier (including defective performance of the Rolling Stock), subject only to the cap on liability for breach or termination of the Rolling Stock Supply Contract described in clause (b) below. In addition, subject to the cap on liability for liquidated damages described in clause (a) below, the Rolling Stock Supplier is responsible for liquidated damages in the amount of (i) $2,000 per Car per day for every day past the Car delivery date indicated on the delivery schedule set forth in the Rolling Stock Supply Contract that the pilot Cars are not delivered to the Design Build Contractor and (ii) $1,000 per Car per day for every day past the Car delivery date indicated on the delivery schedule set forth in the Rolling Stock Supply Contract, that the production Cars (fleet) are not delivered to the Design Build Contractor.

Subject to the terms of the Rolling Stock Supply Contract:

(a) the Rolling Stock Supplier's aggregate liability for liquidated damages for delay is limited, in relation to the District's Rolling Stock Option, 7.5% of the aggregate price of such Cars and, in relation to the other Cars, 10% of the contract price; and

(b) the Rolling Stock Supplier's aggregate liability for breach or termination of the Rolling Stock Supply Contract in tort, contract or for breach of statutory duty or otherwise (inclusive of liability described in clause (a) above) is limited to the Contract Price.

The above limitation of liability described in clause (b) will not cover abandonment, bankruptcy, willful default or fraud of the Rolling Stock Supplier or the proceeds of insurance required to be maintained in accordance with the Rolling Stock Supply Contract.

Warranty. The Rolling Stock Supplier warrants to the Design Build Contractor and the Company that the work it performs under the Rolling Stock Supply Contract will comply strictly with the provisions thereof and all specifications, drawings and standards referred to in such contract or thereafter furnished by the Design Build Contractor, and that such work will be first-class in every particular and free from defects in materials and workmanship and in any design or engineering furnished by the Rolling Stock Supplier. The Rolling Stock Supplier warrants that all materials, equipment and supplies furnished by it for the work will be new, merchantable, of the most suitable grade and fit for their intended purposes. The foregoing warranties will apply until the end of the following periods: for Car Structure and Truck Frame, 15 years from Final Acceptance; and for everything else that is part of the work, 3 years from Final Acceptance (each such period, a "Rolling Stock Warranty Period"). Any period wherein the work is not available for use due to defects in materials, workmanship or engineering furnished by the Rolling Stock Supplier will extend the applicable Rolling Stock Warranty Period by an equal period of time. Design and engineering, labor, equipment and materials furnished by the Rolling Stock Supplier to repair, replace or

remedy defects will be warranted for a period of eighteen (18) months from the date of completion of the correction, or for the remainder of the Rolling Stock Warranty Period, whichever is longer.

Performance Security. The Rolling Stock Supplier will provide performance security in the form of one or more letters of credit in an amount of at least 50% of the contract price to support performance by the Rolling Stock Supplier of its obligations under the Rolling Stock Supply Contract. Following delivery and initial acceptance of 50% of the Cars, the performance security will be reduced to an amount equal to 30% of the contract price. Following the Revenue Service Commencement Date for the East Corridor Project, the performance security may be further reduced to an amount equal to 10% of the contract price to cover the Rolling Stock Warranty Period.

The Rolling Stock Supplier will also provide a parent company guaranty from Hyundai Rotem Company. In the event that the credit rating of the parent guarantor diminishes substantially such that the Design Build Contractor, acting reasonably, deems it to be insufficient, the Rolling Stock Supplier will be required to provide a parent company guaranty from a higher-tier creditworthy parent entity.

Direct Agreements

The following direct agreements will be entered into in connection with the design and construction of the Project:

(a) The District and the Company will enter into a direct agreement with the Trustee that will set forth certain assurances of the rights of the Owners of the Bonds with respect to the Concession Agreement in the event of a default thereunder by the Company, including step-in and cure rights, forbearance obligations of the District with respect to its exercise of remedies under the Concession Agreement, rights of substitution and other rights of the Owners of the Bonds. This direct agreement will not provide for any rights of the Trustee beyond the applicable rights expressly set forth in the Concession Agreement. For additional information, see APPENDIX D—"SUMMARY OF CERTAIN PROVISIONS OF THE LENDERS' DIRECT AGREEMENT."

(b) The Design Build Contractor will enter into a direct agreement with the Trustee providing for its consent to the pledge and assignment of, and the granting of a lien on, all of the Company's right, title and interest in the Design Build Contract, and certain assurances of the Trustee's rights with respect to the Design Build Contract generally.

(c) The O&M Contractor will enter into a direct agreement with the Trustee providing for its consent to the pledge and assignment of, and the granting of a lien on, all of the Company's right, title and interest in the O&M Contract, and certain assurances of the Secured Parties' rights with respect to the O&M Contract generally.

PERMITS AND ENVIRONMENTAL COMPLIANCE

The Company and the District share responsibility for obtaining permits for construction of the Project, and the Company is responsible for ensuring compliance during construction with all of the permit conditions. The status of certain of the major permits is summarized below.

District Permits

The District is responsible for obtaining permits related to certain map revisions (related to the mitigation of flood risks) and for obtaining three permits from the U.S. Army Corps of Engineers (the "USACE") under Section 404 of the Clean Water Act (the "Section 404 Permits") for the protection of wetlands and streambeds. The Section 404 Permits allow the conversion of wetlands but require mitigation through the purchase of credits from mitigation banks to compensate for the lost wetlands at a 1:1 ratio. The District is responsible for securing these wetlands credits to compensate for the wetlands loss under the Section 404 Permits. Three Section 404 Permits are known to be required for the construction of the Project: a Nationwide Permit for the Gold Line construction; an Individual Permit for the East Corridor and an Individual Permit for phase 1 of the NWR construction. All three of these permits have been obtained.

Company Permits

Other than the District permits described above, Permits required for construction or operation of the Project are the Company's responsibility, including any Section 404 Permits for wetland disturbances not yet identified. Numerous additional construction–related permits are required, and the Company and Design Build Contractor are responsible for obtaining the additional permits as the level of design progresses and design information needed to complete the permit applications becomes available. Permits that will be required include stormwater discharge permits, demolition permits and air pollution control construction permits from the State Department of Public Health and Environment; access and special use and occupancy use agreements from the State Department of Transportation; access, vacation, building and other permits from Adams County, Jefferson County, the City and County of Denver and various other cities, among others. To assist the Company, the District is entering into intergovernmental agreements with State, county and city agencies that have permit jurisdiction related to components or areas of the Project. The Technical Advisor has reviewed the Design Build Contractor's list of permits and the proposed schedule for obtaining the permits required for construction of the Project. Section 5.7 of the Technical Advisor's Report.

NEPA Approvals

The National Environmental Policy Act of 1969, as amended ("NEPA") requires federal agencies to prepare a detailed statement that analyzes the environmental impacts and appropriate mitigation, if any, for major agency actions. An Environmental Impact Statement (an "EIS") is required by NEPA when a federal action could have a significant impact upon the environment. Department of Transportation regulations provide that projects involving "new construction or extension of fixed rail transit facilities" and commuter rail projects are examples of department actions with significant environmental impacts. In addition, if a transportation project affects public parks and recreational lands, an EIS generally also includes an analysis pursuant to Section 4(f) of the U.S. Department of Transportation Act of 1966, which allows the use of such lands for transportation purposes only if there is no "feasible and prudent" alternative to such use and if the project includes all possible planning to minimize harm to resources from such use.

The FTA and the District completed the final EIS for the Gold Line on August 21, 2009, and completed the final EIS for the East Corridor on September 4, 2009. After a notice and comment period, the FTA published Records of Decision ("RODs") for each corridor in November 2009, indicating the FTA has completed its environmental review of those projects. The review of the Gold Line included environmental analysis of the CRMF. The FTA published the required notices of the EISs and RODs for the Gold Line and East Corridor on December 9, 2009. As of June 9, 2010, judicial challenges to the adequacy of the environmental review for the Gold Line or East Corridor will be time-barred. Changes to the Project may trigger additional NEPA review requirements, and some of those changes could reopen the environmental review to new judicial challenges.

The NEPA Approvals require the District to mitigate certain environmental impacts of the Project. Among those requirements are the responsibility for compliance with federal statutes and regulations that require acquisition and relocation assistance to those displaced by the Project and the provision of one-year comprehensive passes to the District's system to low-income families impacted by the Project. The NEPA Approvals required the Company to mitigate environmental impacts caused by the construction and operation of the Project.

The District in conjunction with other agencies, including USACE, performed an environmental evaluation of the Northwest Rail Corridor (Phase 1) between Denver Union Station and just north of the South Westminster/71st Avenue Station along the existing BNSF railroad. A Nationwide Section 14 404 Permit was issued by USACE on April 1, 2010. Further, most of the NWES, the Gold Line and NWES share the same tracks on the alignment to Pecos Junction, and the EIS for the Gold Line considered the impacts of the NWES where the two lines share tracks. The Concession Agreement imposes mitigation requirements on the Company for environmental impacts related to the entire length of the NWES.

Compliance, Site Contamination and Cleanup

The Company is responsible for adhering to federal State and local codes, regulations and standards during the construction and operation of the Project. These compliance responsibilities have been passed on to the Design Build Contractor and O&M Contractor under the relevant agreements. An important element of these compliance obligations is the responsibility for management and remediation of contaminated soil and groundwater contamination found along the Project rights of way.

Several portions of the Project Site, including sites on the East Corridor, the Gold Line and the CRMF, include contaminated areas. The District has agreed either to reimburse the Company for the Company's actual costs of clean-up, up to the cost estimate proposed by the Company, or to perform the cleanup itself. The District is preparing applications for the Gold Line and the East Corridor to qualify these sites for management under the State's Voluntary Clean-up and Redevelopment Act. Under this statute, an owner of contaminated property may insulate itself from liability under laws such as the ("CERCLA") by submitting a plan to remediate the contamination present on its property. The District's application to voluntarily remediate the Project sites has not yet been approved by the State.

TECHNICAL ADVISOR REPORT

Arup was appointed by the Company to act as Technical Advisor for the Project. Arup completed the Technical Advisor Report, dated July, 2010 (the "Technical Advisor Report"), which reviews and assesses the technical requirements and standards set forth in the Concession Agreement and the pass-through of the design and construction obligations to the Design Build Contractor. Additionally, the Technical Advisor Report reviews and discusses certain elements of the Project overall; the organization and capabilities of the parties involved or to be involved in the Project; the contractual, design, construction and operations and maintenance obligations related to the Project; technical review and benchmarking of the construction and operation estimates; provisions for contingency and penalties; material loss scenarios; and certain other requirements of the Project and aspects of the Company's proposal. Certain conclusions made by Arup related to these areas of review are detailed below. A complete copy of the Technical Advisor Report is set forth in APPENDIX J—"TECHNICAL ADVISOR REPORT" to this Official Statement.

Project Organization Conclusions

Arup has assessed the experience, capabilities and suitability of the Company's team to undertake the Project. This included a review of projects implemented by the team members individually and jointly. Arup concluded it was satisfied that the Company's team has the technical breadth and depth to deliver the Project.

Contractual, Design, Construction and Operations and Maintenance Conclusions

Arup concluded that the Project technical requirements established by the District are reasonable, achievable, and consistent with industry best practices. Arup also reviewed the operating, maintenance and performance standards established by the District, and concluded that the standards are reasonable and consistent with industry best practices. Arup concluded that the Concession Agreement is reasonable from a technical perspective, and stated that the relief events and force majeure clauses of the Concession Agreement are well defined and favorable to the Company. With respect to the Rolling Stock, Arup reviewed the delivery schedule and found that it is reasonable and achievable based on typical rolling stock delivery capabilities by the supplier.

Arup found that the Design Build Contract has been developed "back-to-back" with the Concession Agreement, such that the design-build obligations and risks have been transferred from the Company to the Design Build Contractor. Further, Arup concluded that adequate deadlines and milestones, including step-in milestones, for the Design Build work have been set to avoid termination of the Concession Agreement for causes attributable to the Contractor. In addition, Arup notes that an appropriate security package has been established within the Design Build Contract. Arup found that the Design Build Contract has substantially mitigated the risk to the Concessionaire for the construction, testing, commissioning and acceptance of the infrastructure and Rolling Stock. Further, Arup was satisfied that the Design Build Contractor's construction cost estimate was reasonable and that the Design Build Contractor's schedule is consistent with the work-plan and estimated means and methods of construction.

With respect to the O&M Contract, Arup found that the contract has been developed "back-to-back" with the Concession Agreement, such that the operation, maintenance and renewal obligations and risks have been transferred from the Company to the O&M Contractor. Further, Arup concluded that adequate criteria for the O&M Contractor have been set to avoid termination of the Concession Agreement for causes attributable to the O&M Contractor, by allowing the Company to implement opportune remedial actions to avoid termination. Arup found that the O&M Contract has substantially mitigated the risk to the Company for the operations, maintenance and renewal requirements of the Project, and that an appropriate security package has been established that will protect the Company.

Arup generally found that the risks associated with construction and operation of the Project are manageable and usual for a project of this nature. Arup observed the risk management process and reviewed the risk register, and concluded that the risk management process has identified and categorized the major risks that are likely to be encountered by the Company. Arup also reviewed the mitigation strategies developed by the Company for the various elements of the Project, including: the Design Build proposal; the choice of Rolling Stock and the Rolling Stock provider; O&M plans; the integration of civil, electrical and mechanical works; the integration of

Rolling Stock traction power system with train signaling and control systems, and the coordination risk with third parties; works at and around DUS, the new commuter rail maintenance facility, and the Class 1 railroad properties. Arup found that the risk process has appropriately allocated risk ownership.

With respect to plans for design, construction and operation of the Project, Arup reviewed the basis for the Company's Technical Proposal including the Company's preliminary engineering technical plans, the Contract Data Requirements Lists (CDRLs), the Design Build and O&M work approach, and Design Build Construction Management Plan, and the O&M program. In addition, Arup reviewed the Company's Technical Proposal for compliance with environmental reports, permits and approvals, the District's technical specifications, and the District's operating requirements for the Project. At the time of Arup's Technical Due Diligence Report, the Project had achieved a 30% completion level of design. Arup concluded that this stage of completion is normal and found that the Company clearly seeks to meet all the Project technical requirements, some which will be confirmed in subsequent design phases. Arup found both the District's specifications and the Company's Technical Proposal to be in line with best practices.

Arup concluded that the alignment and civil works required for the Project, the construction processes necessary to deliver the Project, and the provisions for operations maintenance and renewal are common and normal for North American transportation infrastructure. Arup generally found that there is nothing unusual in the Project that creates significant concern and Arup is comfortable that the risk of delivering the infrastructure as envisioned by the District and the Company is low. Arup did find that the implementation of the federally-mandated Positive Train Control (PTC) System poses a slight risk, as it is a developing industry standard; however Arup is comfortable that the Federal Railroad Administration will most likely work with the Company to enable the proper functioning of this system.

Arup also confirmed that the Service Payment Regime for the Company is reasonable, and that there is low risk of significant penalties to the Service Payments from properly managed operations. The majority of all risks to service payment deductions are manageable.

Contingency, Penalties and Maximum Probable Loss Conclusions

Arup found that the Design Build Contractor's risk mitigation package, consisting of the estimated contingency, escalation and profit, in the aggregate is adequately accounted for. Arup concluded that it is comfortable that, in the aggregate, the total risk mitigation value and the Design Build Contract security package are sufficient to mitigate the risk to the Concessionaire from any potential contingency gap. With respect to contingency risk during the Operating Period, Arup was also satisfied with the contingency amounts for the O&M Operator, noting that the pass-through provisions of the O&M Contract transfer operations and maintenance cost risk to the O&M Operator.

To assess material loss, Arup considered the impact of major construction and operations events. Arup found that the limit of liability of 45% as set forth in the Design Build Contract is adequate to cover potential liability incurred as a result of the constructor's or the supplier's failure to perform. Arup also concluded that the material probable loss to the O&M Operator is less than its anticipated Limit of Liability and Letter of Credit amount.

Other Requirements

Arup reviewed the environmental compliance of the Project for both the federal regulatory planning requirements and the project-specific environmental issues, and found no significant issues of concern. Arup was satisfied that the environmental permitting process for the Project has been managed well to date with most environmental permits already obtained and that the Design Build Contractor has outlined a well thought-out approach for implementing the mitigation measures required by the various NEPA documents.

ECONOMIC AND DEMOGRAPHIC OVERVIEW

An economic and demographic overview of the Denver metropolitan area as of July 2010 (the "Overview") is set forth in APPENDIX K to this Official Statement. The Overview has been prepared at the request of the Company by Development Research Partners which has consented to the inclusion of the Overview in this Official Statement. None of the District, the Company nor the Underwriters intends to assume responsibility for the accuracy, completeness or fairness of the information contained in the Overview. The information in APPENDIX K—"ECONOMIC AND DEMOGRAPHIC OVERVIEW OF THE DENVER METROPOLITAN AREA" has been included in this Official Statement in reliance upon the authority of Development Research Partners as experts in the preparation of economic and demographic analyses.

The Overview analyzes economic and demographic trends in the Denver metropolitan area. It includes analysis of the following categories with respect to the Denver metropolitan area: population, employment, labor force and unemployment, major employers, international trade, inflation, income, retail trade, residential real estate, commercial real estate, transportation and tourism. The Overview uses mostly annual statistics and uses the most recent monthly or quarterly data where annual figures are not yet available. Among the information cited in the Overview:

- The Denver metropolitan area's population reached an estimated 2,828,600 in 2009, rising 1.4 percent from the prior year.

- The Denver metropolitan area's job base of nearly 1.4 million workers includes large concentrations of workers in professional and business services (16.9 percent), government (15.3 percent), and wholesale and retail trade (15 percent). Employment among these three industry supersectors comprises over 47 percent of the jobs in the Denver metropolitan area.

- The Denver metropolitan area's recent high unemployment rate of 7.8 percent in 2009 exceeds Colorado's rate but was one and a half percentage points below the national average even as the most recent recession weakened labor markets and forced many industries to trim their current workforce.

- In 2008, annual growth in the Denver metropolitan area's per capital personal income ($48,357) reached 0.9 percent, down nearly two percentage points from 2007.

- Data from Metrolist show the Denver metropolitan area's average sales price for existing single-family homes rose over the year in each of the last four months of 2009.

- Denver International Airport averages nearly 1,700 flight operations and approximately 137,450 passengers every 24 hours in 2009, making it the fifth-busiest airport in the nation and the 10th busiest in the world.

Potential investors should read the Overview in its entirety for other statistics and information with respect to economic and demographic trends in the Denver metropolitan area.

NO LITIGATION

The Issuer

At the time of delivery and payment for the Bonds, the Issuer will deliver a certificate substantially to the effect that there is no litigation or other proceeding of any nature now pending or threatened against or adversely affecting the Issuer of which the Issuer has notice or, to the Issuer's knowledge, any basis therefor, seeking to restrain or enjoin the issuance, sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds, the resolutions adopted by the Issuer to authorize the transaction, the Issuer's obligation to provide certain continuing disclosure as set forth in the Continuing Disclosure Undertaking, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, or the pledge, collection or application of any moneys or security provided for the payment of the Bonds, or the existence, powers or operations of the Issuer, or contesting the completeness or accuracy of this Official Statement or any supplement or amendment thereto.

The Company

At the time of delivery and payment for the Bonds, the Company will deliver a certificate substantially to the effect that there is no litigation or other proceeding of any nature now pending or threatened against or adversely affecting the Company of which the Company has notice or, to the Company's knowledge, any basis therefor, seeking to restrain or enjoin the issuance, sale, execution or delivery of the Bonds, or in any way contesting or affecting the validity of the Bonds, the resolutions adopted by the Company to authorize the transaction, the Company's obligation and agreement to provide certain continuing disclosure as set forth in the Loan Agreement and the Continuing Disclosure Undertaking, or any proceedings of the Company taken with respect to the issuance or sale of the Bonds, or the pledge, collection or application of any moneys or security provided for the payment of the Bonds, or the existence, powers or operations of the Company, or contesting the completeness or accuracy of this Official Statement or any supplement or amendment thereto.

CONTINUING DISCLOSURE OF INFORMATION

Pursuant to the requirements of the Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. Part 240, § 240.15c2-12) ("Rule 15c2-12"), the Company and the Issuer have agreed in a Continuing Disclosure Undertaking, dated as of August 1, 2010 (the "Continuing Disclosure Undertaking"), among the Company, the Issuer and the Trustee, as dissemination agent, to provide certain financial information, other operating data and notices of material events for the benefit of the Owners of the Series 2010 Bonds. A form of the Continuing Disclosure Undertaking is attached hereto as APPENDIX L. A failure by the Issuer, the Company or the Trustee to comply with the Continuing Disclosure Undertaking does not constitute an Event of Default under the Indenture. Nevertheless, such a failure must be reported in accordance with Rule 15c2-12 and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Series 2010 Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price. Neither the District nor the Company has failed to comply with any continuing disclosure undertaking under Rule 15c2-12.

In addition to the reporting obligations described above, the Company is obligated under the Loan Agreement to deliver to the Electronic Municipal Market Access (EMMA) system (established by the Municipal Securities Rulemaking Board) the following information:

(i) On or before the 15th day following the end of each calendar month during the Design Build Period, a monthly construction report containing the following information: (A) executive summary; (B) report on schedule variances; (C) occurrence of any Relief Events, Force Majeure Events and Changes; (D) cash flow payment curve; (E) list of activities or milestones scheduled to be completed by the District or a Project Third Party during the next month; (F) design, construction and manufacturing critical issues, including without limitation draws on letters of credit provided by the Design Build Contractor during the Design Build Period; and (G) environmental mitigation status, including compliance/non-compliance reports, completed mitigation efforts, public complaints, and non-compliance issues raised by regulatory/oversight agencies (in each case to the extent such information is included in the reports required to be delivered by the Company to the District under the Concession Agreement); and

(ii) Not later than 90 days after the end of each fiscal quarter of the Company occurring after the Revenue Service Commencement Date with respect to the East Corridor Service, a report showing (A) the operating data for the Project for the previous quarter and for the year to date, including total Project Revenues and total O&M Expenditures incurred and (B) the variances for such periods between the actual Project Revenues and the budgeted Project Revenues and the actual O&M Expenditures incurred and the budgeted O&M Expenditures, together with a brief narrative explanation of the reasons for any variance of 10% or more.

The Company has additional reporting obligations under the Loan Agreement. See APPENDIX I—"SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT."

LEGAL MATTERS

The Issuer will furnish the Underwriters a transcript of certain proceedings incident to the authorization and issuance of the Series 2010 Bonds. The District will also furnish, at the Company's expense, the approving legal opinions of Bond Counsel to the Issuer as set forth in APPENDIX M—"FORMS OF APPROVING OPINIONS OF BOND COUNSEL."

The various legal opinions to be delivered concurrently with the delivery of the Series 2010 Bonds express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. In rendering a legal opinion, the attorney does not become an insurer or guarantor of the expression of professional judgment, of the transaction opined upon, or of the future performance of the parties to the transaction, nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

The Series 2010 Bonds are offered when, as and if executed and delivered and accepted by the Underwriters and subject to the approving legal opinion of Sherman & Howard L.L.C., Denver, Colorado, as Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the District by its General Counsel, Marla Lien, Esq.; for the Company by its counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York and Kutak Rock, LLP, Denver, Colorado; and for the Underwriters by their counsel, Mayer Brown LLP, Chicago, Illinois.

TAX MATTERS

Tax Treatment of Interest on the Bonds

In the opinion of Sherman & Howard L.L.C., Bond Counsel, assuming continuous compliance with certain covenants described below, interest on the Series 2010 Bonds, except for interest on any Series 2010 Bond for any period during which it is held by a "substantial user" of the facilities financed with the Bonds or a "related person," as such terms are used in Section 147(a) of the Internal Revenue Code of 1986, as amended to the date of delivery of the Series 2010 Bonds (the "Tax Code"), is excluded from (a) gross income under federal income tax laws pursuant to Section 103 of the Tax Code, (b) alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, and (c) Colorado taxable income and Colorado alternative minimum taxable income under Colorado income tax laws in effect on the date of delivery of the Series 2010 Bonds. See APPENDIX M—"FORMS OF APPROVING OPINIONS OF BOND COUNSEL" attached hereto.

The Tax Code and Colorado law impose several requirements which must be met with respect to the Series 2010 Bonds in order for the interest thereon to be excluded from gross income. Certain of these requirements must be met on a continuous basis throughout the term of the Series 2010 Bonds. These requirements include: (a) limitations as to the use of proceeds of the Series 2010 Bonds; (b) limitations on the extent to which proceeds of the Series 2010 Bonds may be invested in higher yielding investments; and (c) a provision, subject to certain limited exceptions, that requires all investment earnings on the proceeds of the Series 2010 Bonds above the yield on the Series 2010 Bonds to be paid to the United States Treasury. The Issuer and the Company will covenant and represent in the Loan Agreement and the Indenture that they will take all steps necessary to comply with the requirements of the Tax Code and Colorado law (in effect on the date of delivery of the Series 2010 Bonds) to the extent necessary to maintain the exclusion of interest on the Series 2010 Bonds from gross income and alternative minimum taxable income under such federal income tax laws and Colorado taxable income and Colorado alternative minimum taxable income under such Colorado income tax laws. Bond Counsel's opinion as to the exclusion of interest on the Series 2010 Bonds from gross income, alternative minimum taxable income, Colorado taxable income and Colorado alternative minimum taxable income is rendered in reliance on these covenants, and assumes continuous compliance therewith. The failure or inability of the Issuer or the Company to comply with these requirements could cause the interest on the Series 2010 Bonds to be included in gross income, alternative minimum taxable income, Colorado taxable income or Colorado alternative minimum taxable income, or a combination thereof, from the date of issuance. Bond Counsel's opinion also is rendered in reliance upon certifications of the Issuer and the Company and other certifications furnished to Bond Counsel. Bond Counsel has not undertaken to verify such certifications by independent investigation.

With respect to Series 2010 Bonds that were sold in the initial offering at a discount (the "Discount Bonds"), the difference between the stated redemption price of the Discount Bonds at maturity and the initial offering price of such Discount Bonds to the public (as defined in Section 1273 of the Tax Code) will be treated as "original issue discount" for federal income tax purposes and will, to the extent accrued as described below, constitute interest which is excluded from gross income, alternative minimum taxable income, Colorado taxable income, or Colorado alternative minimum taxable income under the conditions described in the preceding paragraphs. The original issue discount on the Discount Bonds is treated as accruing over the respective terms of such Discount Bonds on the basis of a constant interest rate compounded at the end of each six-month period (or shorter period from the date of original issue) ending on January 15 or July 15 with straight line interpolation between compounding dates. The amount of original issue discount accruing each period (calculated as described in the preceding sentence) constitutes interest which is excluded from gross income, alternative minimum taxable income, Colorado taxable income, and Colorado alternative minimum taxable income under the conditions described in the preceding paragraphs and will be added to the owner's basis in the Discount Bonds. Such adjusted basis will be used to determine taxable gain or loss upon disposition of the Discount Bonds (including sale or payment at maturity). Owners should consult their own tax advisors with respect to the tax consequences of the ownership of the Discount Bonds.

Owners who purchase Discount Bonds after the initial offering or who purchase Discount Bonds in the initial offering at a price other than the initial offering price (as defined in Section 1273 of the Tax Code) should consult their own tax advisors with respect to the federal tax consequences of the ownership of the Discount Bonds. Owners who are subject to state or local income taxation (other than Colorado state income taxation) should consult

their tax advisor with respect to the state and local income tax consequences of ownership of the Discount Bonds. It is possible that, under the applicable provisions governing determination of state and local taxes, accrued original issue discount on the Discount Bonds may be deemed to be received in the year of accrual even though there will not be a corresponding cash payment.

The Tax Code contains numerous provisions which may affect an investor's decision to purchase the Series 2010 Bonds. Owners of the Series 2010 Bonds should be aware that the ownership of tax-exempt obligations by particular persons and entities, including, without limitation, financial institutions, insurance companies, recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, foreign corporations doing business in the United States and certain "subchapter S" corporations may result in adverse federal and Colorado tax consequences. Under Section 3406 of the Tax Code, backup withholding may be imposed on payments on the Series 2010 Bonds made to any owner who fails to provide certain required information, including an accurate taxpayer identification number, to certain persons required to collect such information pursuant to the Tax Code. Backup withholding may also be applied if the owner underreports "reportable payments" (including interest and dividends) as defined in Section 3406, or fails to provide a certificate that the owner is not subject to backup withholding in circumstances where such a certificate is required by the Tax Code. Certain of the Series 2010 Bonds were sold at a premium, representing a difference between the original offering price of those Series 2010 Bonds and the principal amount thereof payable at maturity. Under certain circumstances, an initial owner of such bonds (if any) may realize a taxable gain upon their disposition, even though such bonds are sold or redeemed for an amount equal to the owner's acquisition cost. Bond Counsel's opinion relates only to the exclusion of interest (and, to the extent described above for the Discount Bonds, original issue discount) on the Series 2010 Bonds from gross income, alternative minimum taxable income, Colorado taxable income and Colorado alternative minimum taxable income as described above and will state that no opinion is expressed regarding other federal or Colorado tax consequences arising from the receipt or accrual of interest on or ownership of the Series 2010 Bonds. Owners of the Series 2010 Bonds should consult their own tax advisors as to the applicability of these consequences.

The opinions expressed by Bond Counsel are based upon existing law as of the delivery date of the Series 2010 Bonds. No opinion is expressed as of any subsequent date nor is any opinion expressed with respect to any pending or proposed legislation. Amendments to federal and Colorado tax laws may be pending now or could be proposed in the future which, if enacted into law, could adversely affect the value of the Series 2010 Bonds, the exclusion of interest (and, to the extent described above for the Discount Bonds, original issue discount) on the Series 2010 Bonds from gross income from the date of issuance of the Series 2010 Bonds or any other date, or which could result in other adverse federal or Colorado tax consequences. Owners of the Series 2010 Bonds are advised to consult with their own tax advisors with respect to such matters.

IRS Audit Program

The Internal Revenue Service (the "Service") has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is includable in the gross income of the owners thereof for federal income tax purposes. No assurances can be given as to whether or not the Service will commence an audit of the Series 2010 Bonds. If an audit is commenced, the market value of the Series 2010 Bonds may be adversely affected. Under current audit procedures, the Service will treat the Issuer as the taxpayer and the Owners of the Series 2010 Bonds may have no right to participate in such procedure. The issuer has covenanted in the Indenture and the Company has covenanted in the Loan Agreement not to take any action that would cause the interest on the Series 2010 Bonds to lose its exclusion from gross income for federal income tax purposes or lose its exclusion from alternative minimum taxable income for the owners thereof for federal income tax purposes. None of the Issuer, the Underwriters nor Bond Counsel is responsible to any Owner of a Series 2010 Bond for any audit or litigation relating to the Bonds.

RATINGS

The Series 2010 Bonds have been assigned ratings of "Baa3" by Moody's and "BBB-" by Fitch. The respective ratings of Moody's and Fitch reflect only the views of such organizations and any desired explanation of the significance of such ratings should be obtained from the applicable rating agency furnishing the same at the following address: Moody's Investor Service, Inc., 7 World Trade Center at 250 Greenwich Street, New York, New York 10007 and Fitch Rating Services, One State Street Plaza, New York, New York 10004. Generally, a rating agency bases its rating on information and materials furnished to it and on investigations, studies and assumptions by such rating agency. A rating is not a recommendation to buy, sell or hold the Series 2010 Bonds. There is no assurance that such ratings will continue for any given period of time or will not be revised downward, suspended or withdrawn entirely by the rating agency, if, in its judgment, circumstances so warrant. Any such lowering, suspension or withdrawal of the rating might have an adverse effect upon the market price or marketability of the Series 2010 Bonds. The Underwriters, the Issuer and the Company undertake no responsibility after the issuance of the Series 2010 Bonds to assure the maintenance of the rating or to oppose any revision or withdrawal thereof.

UNDERWRITING

The Series 2010 Bonds are being sold at an aggregate purchase price of $392,531,113.65 (representing the $397,835,000 aggregate original principal amount of the Series 2010 Bonds less net original issue discount of $1,717,176.15 and less an underwriting discount of $3,586,710.20) to the Underwriters pursuant to a bond purchase agreement entered into among the Underwriters, the Issuer and the Company. The expenses associated with the issuance of the Series 2010 Bonds are being paid by the Company from proceeds of the Series 2010 Bonds and other available funds. The right of the Underwriters to receive compensation in connection with the Series 2010 Bonds is contingent upon the actual sale and delivery of the Series 2010 Bonds. The Underwriters will initially offer the Series 2010 Bonds for sale at the prices or yields set forth on the inside cover of this Official Statement. Such prices or yields may subsequently change with the prior written consent of the Company. The Underwriters reserve the right to join with dealers and other investment banking firms in offering the Series 2010 Bonds for sale.

MISCELLANEOUS

Registration of Bonds

Registration or qualification of the offer and sale of the Series 2010 Bonds (as distinguished from registration of the ownership of the Series 2010 Bonds) is not required under the federal Securities Act of 1933, as amended, or the Colorado Securities Act, as amended. The Issuer assumes no responsibility for the qualification or registration of the Series 2010 Bonds for sale under the securities laws of any jurisdiction in which the Series 2010 Bonds may be sold, assigned, pledged, hypothecated or otherwise transferred.

Additional Information

Copies of any of the documents referenced or summarized herein will be available following the date of issuance of the Series 2010 Bonds, upon delivery of a written request, and the payment of reasonable copying, mailing and handling charges, to the Trustee.

Authorization

The preparation of this Official Statement and its distribution has been authorized by the Company. This Official Statement is not to be construed as an agreement or contract between the Issuer or the Company and any purchaser, owner or holder of any Bond.

DENVER TRANSIT PARTNERS, LLC

By: /s/ David Parker
Title: Authorized Signatory

By: /s/ Chris Voyce
Title: Authorized Signatory

By: /s/ Charles Nuttall-Smith
Title: Authorized Signatory

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APPENDIX A

THE REGIONAL TRANSPORTATION DISTRICT

GENERAL INFORMATION

General Description

The Regional Transportation District (the "District") is empowered to develop, maintain and operate a mass transportation system within its boundaries. The District's service area encompasses portions of an eight-county region including the Denver metropolitan area. Over one-half of the population of the State currently resides in the Denver metropolitan area.

Organization

The District was created in 1969 by the State General Assembly as a mass transportation planning agency for the Denver metropolitan area. The District is a public body politic and corporate and a political subdivision of the State, organized and existing under the terms of the Act. In 1974, the Act was amended, and the District became an operating entity charged with the responsibility for developing, maintaining and operating a mass transportation system (the "System") for the benefit of the inhabitants in its service area.

Pursuant to the Act, in September 1973, the voters of the District authorized the District to issue bonds for the purpose of developing a public multi-modal mass transportation system for the District, such bonds to be payable from the proceeds of a District-wide sales tax. Thereafter, the District began negotiations for the acquisition of the existing public and private transit operations throughout the District. By the end of 1976, the District had consolidated seven public and private transit systems into a single system. The largest of these systems, Denver Metro Transit, owned by the City and County of Denver, was acquired in 1974. The District's geographical area consists of the City and County of Denver, most of the City and County of Broomfield, the Counties of Boulder and Jefferson, the western portions of Adams and Arapahoe Counties, the southwestern portions of Weld County, and the northeastern and Highlands Ranch areas of Douglas County. The District currently services 2,337 square miles and 40 cities and towns. Periodically, the legislature provides for elections within the District's boundaries that, if successful, add territory to the District. Territory may also be added to the District's geographical area in certain circumstances by petition of the owners of the land sought to be included in the District or by a petition followed by an election held in the area sought to be included in the District. See "THE DISTRICT SERVICE AREA MAP" herein.

Prior to 2005, the District imposed a 0.6% sales tax (the "0.6% Sales Tax") to help support its activities. On November 2, 2004 (the "2004 Election"), voters in the District approved a ballot referendum allowing for an increase in the District sales tax rate from 0.6% to 1.0% effective January 1, 2005. The additional four-tenths of one percent sales tax increase approved at the 2004 Election is referred to herein as the "0.4% Sales Tax Increase." At the 2004 Election, the District was also authorized to issue debt in the amount of $3.477 billion, with a maximum total repayment cost of $7.129 billion, and a maximum annual repayment cost of $309.738 million, with the proceeds of such debt and increase taxes to be spent on the construction and operation of a transit expansion plan known as "FasTracks." See "THE SYSTEM—FasTracks" herein.

Powers

As described under "THE DISTRICT SALES TAX" herein, the District has the power to impose a sales tax. Under the Act, the District's use of sales tax revenues is restricted to paying the costs of operations of the District, to defraying the cost of capital projects and to paying the principal and interest on securities of the District.

Because the District is an entity created by statute, its powers are susceptible to changes in statute. In particular, because the State General Assembly requires the sales tax imposed by the District to be imposed upon the same transactions or incidents with respect to which the State imposes a sales tax, with certain exceptions, the

District is unable to prevent the State from enacting exemptions that would diminish its tax base. However, when the State enacted significant new sales tax exemptions in 1983, it also increased the District's sales tax rate. Legislation that has broadened State sales tax exemptions has allowed the District to continue to collect sales tax on such transactions.

The District, with voter approval, also has the power to levy and cause to be collected general ad valorem taxes not to exceed one-half of one mill on all taxable property within the District whenever the District anticipates a deficit in operating or maintenance expenses. See "FINANCIAL INFORMATION CONCERNING THE DISTRICT—Major Revenue Sources" and "CONSTITUTIONAL REVENUE, SPENDING AND DEBT LIMITATIONS" herein. Although the Act allows the District to levy this tax, the District has not exercised its power to levy a general ad valorem property tax since 1976, and has no present intention of doing so in the reasonably foreseeable future.

The District also has the power to increase or decrease the fares for services and facilities provided by the District; sue and be sued; purchase, trade, maintain and dispose of its real property and personal property; condemn property for public use; accept grants and loans from the Federal Government; and establish, maintain and operate a mass transportation system and all the necessary facilities relating to such system.

The District's address is 1600 Blake Street, Denver, Colorado 80202, and its telephone number is (303) 628-9000.

Board of Directors

The District is governed by a fifteen-member elected Board of Directors (the "Board") with each member elected from one of the fifteen districts (the "Director Districts") comprising the District's geographical area. See the "DISTRICT SERVICE AREA MAP" herein. Each Director District currently has approximately 180,000 residents and most Director Districts cross county boundaries. After each federal census the fifteen Director Districts are apportioned so that each Director District represents, to the extent practicable, one-fifteenth of the total population of the District.

The regular term of office for each Director is four years, with approximately one-half of the Directors being elected every two years. If a vacancy arises in the Board, which vacancy can occur if a Director from one Director District changes his or her residence to a place outside the Director District, or if a Director resigns, or if a Director is recalled from office by the electors of the Director District, the vacancy is to be filled by appointment for the balance of the term by the board of county commissioners of the county where the Director District is located or, in the case of a Director elected in Denver, by the Mayor of the City and County of Denver with the approval of the City Council of the City and County of Denver. If the vacancy occurs in a Director District that crosses county boundaries, the vacancy is to be filled by an appointee of the board of county commissioners of the county wherein the largest number of registered electors of the Director District reside; however, if the largest number of registered electors reside in the City and County of Denver, the Mayor of the City and County of Denver, with the approval of the City Council of the City and County of Denver, is to appoint someone to fill the vacancy.

The Board has the authority to exercise all the powers, duties, functions, rights and privileges vested in the District, including the power to delegate executive and administrative powers to officers and employees of the District. Most actions of the Board require the affirmative vote of a majority of the Board. Legislation enacted in the 1990 session of the State General Assembly requires an affirmative vote of two-thirds of the Board to approve any action relating to the authorization of the construction of a fixed-guideway mass-transit system and prohibits the Board from taking any such action until such systems have been approved by the metropolitan planning organization, currently the Denver Regional Council of Governments.

The Board and the current principal officials are as follows:

Board of Directors

Name	Expiration of Present Term (December 31)	Occupation
Lee Kemp, Chairman	2012	Self-employed
Christopher Martinez, First Vice Chairman	2010	Senior Account Manager, Federal Reserve Bank
Noel Busck, Second Vice Chairman	2010	Retired Mayor, City of Thornton
Kent Bagley, Secretary	2012	Urban Planner and Real Estate Consultant
John L. Tayer, Treasurer	2010	Public Affairs Manager
Barbara J. Brohl	2012	Attorney
William M. Christopher	2010	Retired City Manager, City of Westminster
Matt Cohen	2012	Realtor
Bruce Daly	2010	Retired Bus Operator
Bill James	2012	President, James Real Estate Services, Inc.
Angie Malpiede	2010	Director of Stapleton Area Transportation Management Association
William G. McMullen	2012	Operations Manager
Jack O'Boyle	2012	Former Mayor, City of Lone Tree
Wallace Pulliam	2010	Owner of Governmental Affairs Company
Tom Tobiassen	2012	Senior Systems Engineer

Principal Officials

The following is a list of the current administrative and management personnel most involved in the management of the District, their background and experience, and a description of their jobs:

Mr. Phillip A. Washington – General Manager. Mr. Washington was appointed to the position of General Manager in December 2009 after serving as Interim General Manager since June 2009. He holds a Bachelor of Arts degree in Business Administration from Columbia College and a Masters Degree in Management from Webster University. Mr. Washington was a highly decorated 24-year military professional, having attained the highest military noncommissioned officer rank, that of Command Sergeant Major, E-9, before retiring from service in June 2000. He began his military career in Air Defense Artillery units and served in virtually every noncommissioned officer leadership role. He has also been a distinguished project manager, strategic planner, contract representative, human resource director, trainer and budget technician. Prior to being appointed Interim General Manager, Mr. Washington was appointed Assistant General Manager, Administration in 2000, in which capacity he directed the activities of the following divisions: Finance, Materials Management, Human Resources, Information Technology, Treasury, and the Small Business Opportunity Office.

The District conducted a national search to fill the General Manager position. On December 15, 2009, the Board unanimously voted to enter into contract negotiations with Mr. Washington to serve as the District's General Manager.

Ms. Marla Lien – General Counsel. Ms. Lien was appointed General Counsel for the District in May 2005 after having served as Acting General Counsel since November 2004. Ms. Lien has a Bachelor of Arts degree in History and a Juris Doctor degree from the University of Colorado. Prior to taking on the responsibilities of Acting General Counsel, Ms. Lien's concentration at the District had been in real estate, federal regulatory compliance, local government law and issues related to Colorado's Taxpayer's Bill of Rights (TABOR). Ms. Lien has been with the District since 1990.

Mr. Terry L. Howerter – Chief Financial Officer. Mr. Howerter was appointed to the position of Chief Financial Officer on June 30, 2008 and has filled the position of Acting Assistant General Manager, Administration since June 29, 2009. He holds a Bachelor of Arts in Accountancy degree from the University of Illinois at

Springfield and is a member in good standing of the American Institute of Certified Public Accountants. Mr. Howerter has over twenty-five years of progressive accounting and financial experience in both the public and private sector. He has held senior level finance and accounting positions with the C&NW Transportation Company, Union Pacific Railroad, and The Denton County Transportation Authority. As the District Acting Assistant General Manager, Administration, he directed the activities of the following divisions: Finance, Materials Management, Human Resources, Information Technology, Treasury, and the Small Business Opportunity Office.

Ms. Carla Perez – Assistant General Manager, Administration. Ms. Perez was appointed Assistant General Manager, Administration in June 2010. She has over 20 years' experience in executive management and advisory services specializing in transportation policy, finance, program development, procurement, human resources, and information technology. Ms. Perez served on the Colorado Department of Transportation's Executive Management Team as Policy Director from 1991 to 1999 and worked as the Senior Policy Advisor for Transportation in Governor Bill Ritter's Office from 2007 to 2010. She has a Master of Arts Degree in Public Management from the University of Maryland and a Bachelors of Arts Degree in Journalism from Colorado State University. Ms. Perez also participated in the Harvard University Leadership Program for State and Local Executives at the Kennedy School of Public Affairs.

Mr. Bill Van Meter – Assistant General Manager, Planning. Mr. Van Meter was appointed to the position of Assistant General Manager, Planning for the District in April 2010 after being appointed as Acting Assistant General Manager, Planning in September 2008. Mr. Van Meter has over 20 years experience in the transportation planning field, with extensive experience in public transit and roadway planning, managing multi-modal transportation studies, and Federal Transit Administration New Starts funding processes. Mr. Van Meter has been with the District since 1991, and prior to his appointment to his current position, he held progressively responsible positions at the District, most recently in the position of Senior Manager of Systems Planning. Prior to his employment with the District, Mr. Van Meter was employed as a transportation planner with the South Central Regional Council of Governments in Connecticut. He holds Bachelor's and Master's degrees in Economic Geography from the University of Illinois at Urbana-Champaign.

Mr. Bruce Abel – Assistant General Manager, Bus Operations. Mr. Abel joined the District in 2001 as Manager of Special Services and was appointed Assistant General Manager, Bus Operations in May 2010. Prior to that appointment, Mr. Abel served as Assistant General Manager, Contracted Services. Mr. Abel holds a Bachelor of Arts degree in Economics from Wake Forest University and a Master of Business Administration degree with a concentration in marketing from the University of North Carolina-Greensboro. Mr. Abel has more than 30 years of public transportation management and consulting experience in both the public and private sector, including positions in North Carolina, Texas, South Dakota and Colorado. Mr. Abel is responsible for overseeing the provision of the District's contracted services including ADA paratransit service, traditional fixed-route services and non-traditional services including general public paratransit, vanpooling and special event services.

Mr. Richard Clarke – Assistant General Manager, Capital Programs. Mr. Clarke was appointed Assistant General Manager, Capital Programs in May 2010. Prior to that time, Mr. Clarke held the position of Assistant General Manager, FasTracks/Engineering. Mr. Clarke is responsible for corridor implementation. He previously served as the District's Project Director for the Transportation Expansion (T-REX) project. T-REX was a $1.7 billion, multi-modal (highway/light rail) project that included 19 miles of new light rail and 13 stations. It was completed ahead of schedule and under budget. He has previous transit project experience in Dallas, New York, Boston, Cleveland and Philadelphia. Mr. Clarke has Bachelor's and Master's Degrees in transportation engineering from the University of Pennsylvania.

Mr. Calvin 'Cal' L. Shankster – Acting Assistant General Manager, Rail Operations. Mr. Shankster was appointed to the position of Acting Assistant General Manager, Rail Operations in July of 2008. Mr. Shankster is responsible for the day-to-day operations of the District's light rail system. His duties also include light rail coordination on all expansion projects to ensure that all operational concerns are met. Mr. Shankster has been employed with the District for over 25 years, 16 of those years in the Light Rail Department. Mr. Shankster began his career with the District in bus maintenance and has since held managerial positions in Maintenance of Way and light rail vehicle maintenance.

Mr. David A. Genova – Assistant General Manager, Safety, Security and Facilities. Mr. Genova was appointed Assistant General Manager, Safety, Security and Facilities in May 2007. Mr. Genova has a Bachelor of Arts degree in Geology from the University of Colorado and a Masters Degree in Business Administration from Regis University. Mr. Genova has over 23 years of safety and environmental experience, and 16 years of transit experience including the start-up of four District light rail projects and participation in a number of transit industry peer reviews. He is a certified hazardous materials manager and certified safety and security director for bus and rail transit. Mr. Genova is active in APTA safety and security committees, served as the Vice Chair of the APTA Bus Safety Committee, served as Vice President and Board Director of the FBI InfraGard Denver Members Alliance, and is on the Board of Directors of Colorado Operation Lifesaver. He is also a Senior Associate Staff Instructor for the Transportation Safety Institute. Mr. Genova directs the Safety and Environmental Compliance Division, the Security and Emergency Management Division and the Facilities Division. He has been with the District since 1994.

Mr. Scott Reed – Assistant General Manager, Public Affairs. Mr. Reed was promoted to Assistant General Manager in 2006, having previously served as Director of Public Affairs. The official spokesperson for the agency, he is responsible for managing all media relations efforts, the Government Relations unit, the Customer Information division including the Telephone Information Center and Pass Sales outlets, marketing and the public outreach and public information programs for the FasTracks project. He also administers the Equal Employment Opportunity and Internal Audit units. Mr. Reed has been with the District since 1991, and his nearly 30-year professional career in public affairs includes work as a newspaper reporter and assistant editor, Conference and Events Coordinator at the University of Colorado, and Director of Special Events for the Cystic Fibrosis Foundation in Colorado Springs. He holds a Bachelor's degree in Journalism and a Master's of Public Administration degree, both from the University of Colorado.

Employee and Labor Relations

The District employs approximately 2,466 persons of whom about 1,802 are represented by Local 1001 of the Amalgamated Transit Union (the "Union"), which bargains collectively on behalf of these employees. In November 2009, the District and the Union arbitrated and entered into a collective bargaining agreement which expires on February 28, 2012. In addition to District employees, approximately 1,720 non-District employees provide contracted services including fixed-route and paratransit services.

Retirement Plans

Pension/retirement plans have been established covering substantially all of the District's employees. Union-represented employees participate in a pension trust, established through a collective bargaining agreement, and administered by a Board of Trustees representing both the Union and the District. Both the District and the employees contribute to this plan (the "Represented Plan"). Under the Represented Plan, the contract required the District to contribute 8% (and the employees to contribute 3%) of eligible employees' qualifying wages each year through expiration of the collective bargaining agreement on February 28, 2012. The District's obligations under the Represented Plan are limited to its defined contributions. The District has no liability for unfunded pension benefits and is current with respect to its obligation to pay such defined contributions.

Non-represented salaried personnel hired prior to January 1, 2008 are covered under a non-contributory defined benefit plan to which the District contributes a percentage of payroll costs annually computed on an actuarial basis (the "Salaried Pension Plan"). For the year ending December 31, 2009, the District contributed 9.0% of payroll to the Salaried Pension Plan. The Salaried Pension Plan provides for actuarially determined periodic contributions at rates so there are sufficient assets to pay benefits when due. Non-represented salaried personnel hired on or after January 1, 2008 are covered under a non-contributory defined contribution plan providing a 9.0% contribution based on the employee earnings. The District closed the defined benefit plan and initiated the defined contribution plan to ensure long-term fiscal soundness of both plans while controlling the cost of pension benefits.

These plans are qualified with the Internal Revenue Service with the plan costs to the District for the Represented Plan and Salaried Pension Plan of $13.371 million and $4.932 million, respectively, for the year ended December 31, 2009. As of January 1, 2010, the actuarial value of liabilities in excess of the actuarial accrued assets for the Salaried Pension Plan was approximately $4.759 million. The pension benefit obligation is based on the

most recent actuarial valuations dated January 1, 2009. All actuarial valuations are performed by The Segal Company.

The District also has a deferred compensation plan, created in accordance with §457 of the Internal Revenue Code of 1986, as amended, which is available to substantially all employees and permits employees to defer a portion of their compensation to future years.

Other Postemployment Benefits

Employees of state and local governments may be compensated in a variety of forms in exchange for their services. In addition to a salary, many employees earn benefits over their years of service that will not be received until after their employment with the government ends. As the name suggests, Other Postemployment Benefits ("OPEBs") are postemployment benefits other than pensions

Although OPEBs may not have the same legal standing as pensions in some jurisdictions, the Governmental Accounting Standards Board ("GASB") believes that OPEBs are a part of the compensation that employees earn each year, even though these benefits are not received until after employment has ended. Therefore, the cost of these future benefits is part of the cost of providing public services today.

In 2004, the GASB issued two new standards—GASB Statement No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, and GASB Statement No. 45, Accounting and Financial Reporting for Employers for Postemployment Benefits Other Than Pensions. The purpose of these new standards is to ensure that governments recognize and report information about the size of their long-term financial obligations and commitments related to OPEBs. The District adopted GASB Statement No. 45 for its comprehensive annual financial reports from the fiscal year beginning January 1, 2007.

The District is not presently obligated to contribute funds towards OPEBs for any of its employees and therefore does not have an unfunded liability relating to OPEBs.

Insurance

Under the provisions of the State Governmental Immunity Act, the maximum liability to the District for a personal injury claim is $150,000 per individual, or $600,000 per incident beginning July 1, 1992. The District, however, may be unable to rely upon the defense of governmental immunity and might be subject to liability in excess of the maximum limits established by the State Governmental Immunity Act in the event of suits alleging causes of action founded upon various federal laws, such as suits filed pursuant to 42 U.S.C. Section 1983 alleging the deprivation of federal constitutional or statutory rights of an individual and suits alleging anti-competitive practices and violation of the anti-trust laws by the District in the exercise of its delegated powers. See "GOVERNMENTAL IMMUNITY" herein.

The District also holds excess liability insurance for bodily injury, personal and advertising injury, public officials' liability and property damage. The limits are $25,000,000 less the District's self-insured retention of $250,000 per claim. Additionally, the District carries property insurance on buildings and other physical assets.

The District's policy is to recognize claims as they arise, not when they are resolved. The District anticipates claims by budgeting the expected losses in the current year; such amounts are reflected as liabilities in the District's comprehensive annual financial reports. No fund or pool of money is segregated or restricted by the District for the payment of such claims. For 2010, the District budgeted $3.225 million for anticipated liability and $2.628 million for workers' compensation claims arising in 2010. The District maintains reserve funds for existing (as of December 31, 2009) liability in the amount of $2.066 million and workers' compensation claims in the amount of $1.782 million.

Under State law, the insurer of a private motor vehicle has a cause of action for benefits actually paid by the insurer against the owner or operator of a nonprivate motor vehicle responsible for the accident. There is an exception, however, for accidents involving motor vehicles of the District. The insurer of a private motor vehicle or

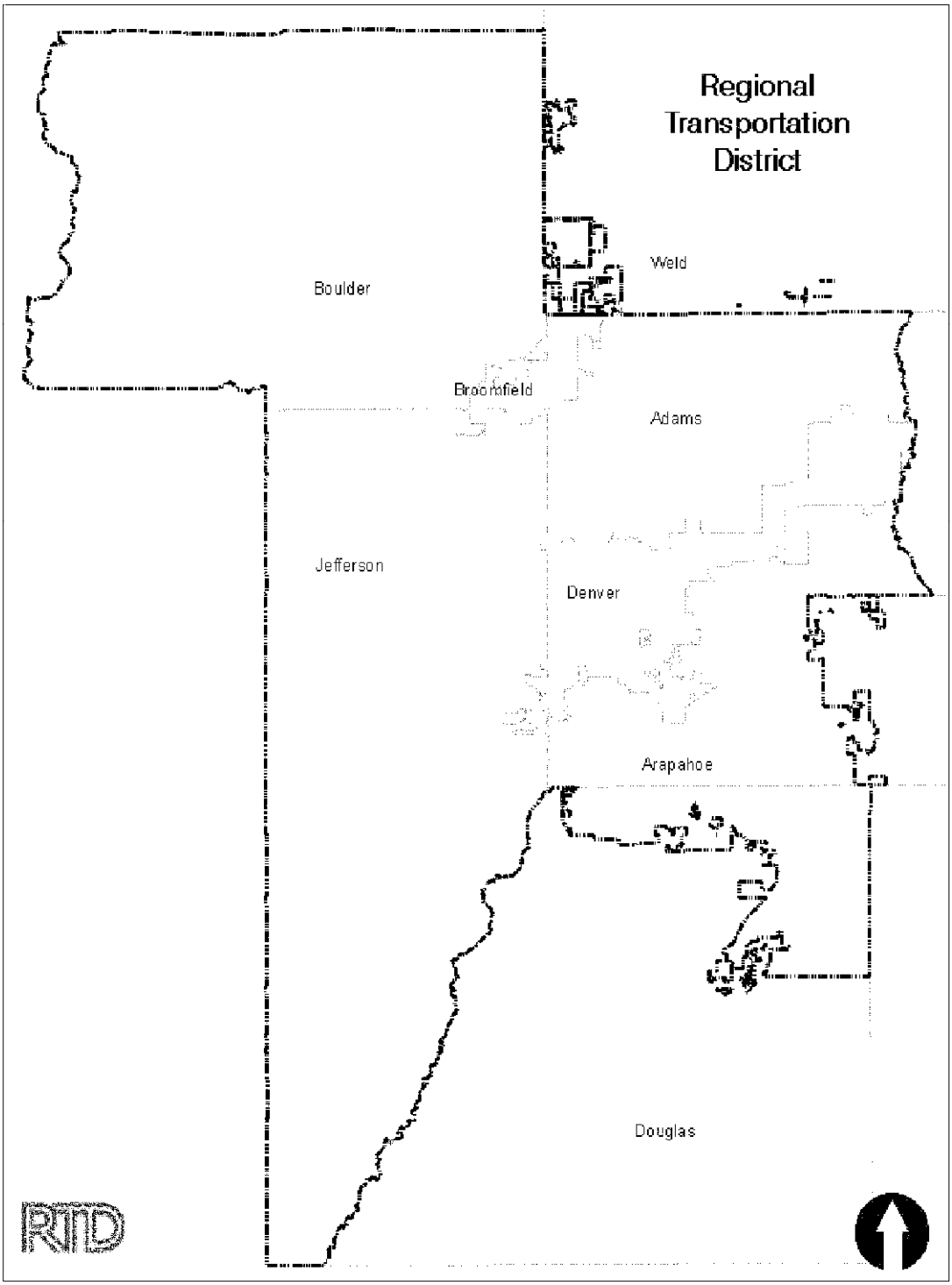
a nonprivate motor vehicle is precluded from having any cause of action or right of reimbursement for any no-fault benefit, which does not include collision damages, paid by the insurer as a result of a vehicle accident involving a vehicle owned or operated by the District, except a maintenance or service vehicle owned or operated by the District. Effective July 1, 2003 the Colorado No Fault Insurance Act was repealed. The District will have potential no-fault liability only for claims arising prior to that date.

Intergovernmental Agreements

Under State law, intergovernmental relationships and agreements are permitted among political subdivisions, agencies, departments of the United States, the State and any political subdivision of an adjoining state. Governments may cooperate or contract with one another for the provision of any function, service or facility that each of them is authorized to provide separately. At any given time, the District has numerous intergovernmental agreements ("IGAs") for various purposes with municipalities, the State or its agencies such as the Department of Transportation, and the federal government, particularly the Federal Transit Administration ("FTA"). The various agreements cover areas including, but not limited to, District support for the provision of additional bus service in the City of Boulder through the HOP Agreement with Boulder; construction and/or maintenance of joint facilities such as roads, bridges or bike paths; and jointly funded studies such as MIS corridor studies. Agreements with FTA usually involve grant funding and application of grant funds. Other than full funding grant agreements with FTA and annual grant agreements with FTA for Section 5307 funds, no other financially or operationally significant IGAs exist at this time.

DISTRICT SERVICE AREA MAP

The following map shows the service area of the District.



THE SYSTEM

Regional Transportation Plan

The long-term goals and policies of the District are incorporated in a plan known as the Metro Vision Regional Transportation Plan (the "Regional Plan"). The Regional Plan is mandated by the United States Department of Transportation which has recognized the Denver Regional Council of Governments ("DRCOG"), a voluntary association of Denver metropolitan area county and municipal governments, as the entity charged with preparing the Regional Plan. DRCOG, in coordination with the Colorado Department of Transportation ("CDOT"), the District and local governments, has developed the Regional Plan to provide a coordinated system of transit and roadway improvements to meet the transportation needs of the Denver metropolitan area through the year 2035 within projected available revenues. By inclusion in the Regional Plan, the District's capital projects may become eligible for federal assistance.

The Regional Plan includes those regional transportation facilities that can be provided through the year 2035, based on reasonably expected revenues. The Regional Plan focus is on improving facilities for a variety of transportation modes; improving the intermodal connections between the various transportation modes; and providing programs and services to support the transportation system. The Regional Plan consists of a network of highways of various roadway classifications, high occupancy vehicle and rail rapid transit facilities, bus service, specialized services for the elderly and disabled, airports of various classifications, provisions for freight travel, a regional bicycle network, sidewalks for pedestrians, and intermodal facilities to provide connections among and between transportation modes.

Fleet Composition

As of March 2010, the District owned 1,024 fixed-route transit buses (436 of which are leased to private carriers), 138 light rail vehicles, 325 Access-a-Ride paratransit vehicles and 36 call-n-Ride vehicles. The District fleet includes 22-, 30- and 40-foot transit coaches, 60-foot articulated coaches, over-the-road coaches, specially designed low-floor coaches for use on the Sixteenth Street Mall, 85-foot articulated light rail vehicles and vans and buses used for Access-a-Ride paratransit service mandated by the Americans with Disabilities Act of 1990. As of December 31, 2009, the System had a peak fleet requirement of 811 fixed-route buses and 88 light rail vehicles.

The following table shows the composition of the District's active vehicle fleet as of March, 2010:

TABLE I
District Active Fleet as of March, 2010

Transit Services

Fixed Route Bus Fleet	Number
District Owned – Fixed Route Buses	576
40' Transit Coaches	118
Articulated Buses	156
Intercity Coaches	36
Mall Shuttles	124
30' Transit Buses	14
Total District-Owned Fixed Route Buses	1,024
Access-a-Ride Fleet(1)	325
call-n-Ride Fleet(2)	36
Light Rail Vehicle Fleet	138
TOTAL ACTIVE FLEET	1,523

(1) All paratransit vehicles are owned by the District and operated by private operators under contract to the District.
(2) call-n-Ride vehicles are owned by the District and operated by private operators under contract with the District.
Source: The District.

Transit Services

In order to meet the needs of the residents of the District, the District provides eleven types of service on 150 routes, including those operated by private contractors:

1. ***Local*** – routes operating along major streets within the Denver metropolitan area and the cities of Boulder and Longmont, making frequent stops for passengers.

2. ***Limited*** – routes serving high-density corridors with less frequent stops than local routes.

3. ***Circulator*** – routes serving neighborhoods or specific areas.

4. ***Express*** – routes providing non-stop service from suburban areas to downtown Denver and other employment centers.

5. ***Regional*** – routes connecting outlying areas of the District to downtown Denver, Boulder and other employment centers.

6. ***SkyRide*** – routes serving Denver International Airport.

7. ***Light Rail*** – rail service in the Southeast Corridor and between Mineral Avenue in Littleton to either 30th and Downing Streets in Denver or Denver Union Station.

8. ***Mall Shuttle*** – a free shuttle service operating along the 16th Street Mall in downtown Denver.

9. ***Access-a-Ride*** – door-to-door paratransit service for people with disabilities provided under the requirements of the Americans with Disabilities Act of 1990.

10. ***call-n-Ride*** – curb-to-curb service that responds to passenger requests. Typically operated in lieu of fixed route service with small vehicles in areas and/or times of low demand.

11. ***Special*** – for example, SeniorRide – pre-scheduled trips in off-peak hours to recreational events for elderly persons in the Denver metropolitan area, Boulder and Longmont, seven days a week; BroncosRide – shuttle service from the Auraria campus, Federal Boulevard and selected park-n-Rides to Denver Broncos home games; RockiesRide – shuttle service from selected park-n-Rides to Colorado Rockies home games.

State law requires that the District contract with private operators for the provision of at least 50% of its vehicular services. The District is in compliance with this requirement.

The District may, but currently does not, provide charter service to the extent that such service cannot be provided by private operators. Pursuant to federal regulations, charter service operated by the District cannot interfere with its regularly scheduled services, and the rate charged by the District must recover the fully allocated cost of operating the service.

The following table shows additional operating data concerning the System as of March 2010:

TABLE II
Operating Data
(As of March 2010)

Total Miles[1]	48,862,622
Active bus stops	10,199
Number of regular fixed routes	150
Local	67
Express	20
Regional	16
SkyRide	5
City of Boulder Local	15
City of Longmont Local	7
Limited	11
Miscellaneous	9
Ridership average weekday, revenue service	283,602
Ridership average weekday, all services	331,121
Total annual boardings, revenue service	84,957,096
Daily miles operated (average weekday), including Sixteenth Street Mall[2]	159,824
Weekday regular fixed-route scheduled miles, including Sixteenth Street Mall and Light Rail[2]	163,987
Annual diesel fuel consumption, gallons	5,400,000
Total active buses	1,050
Wheelchair lift equipped buses	1,050
Number of employees (actual staff)[3]	
Salaried	2,466
Represented (includes part-time drivers)	1,802
Fleet requirements (during peak hours, regular buses only)	830
Operating facilities[3]	6

(1) January 2010 service levels annualized (including Light Rail).
(2) District-operated buses only.
(3) Exclude purchased transportation services.
Source: Financial records of the District.

Passenger, Maintenance and Administrative Facilities

Patrons using District transit service may park in park-n-Ride lots. By providing the park-n-Ride lots, the District provides express and regional services in low-density areas and more frequent long-haul services for patrons. As of March 2010, the District had 74 park-n-Ride lots providing a total of 26,813 parking spaces.

The District currently owns four bus maintenance facilities. The District also owns two light rail maintenance facilities, two administrative buildings and four passenger terminals located throughout the District.

FasTracks

General. On November 2, 2004, voters in the District approved a ballot referendum allowing for an increase in the District sales tax rate from 0.6% to 1.0% effective January 1, 2005. In connection therewith, the ballot referendum also authorizes the District to issue up to $3.477 billion of additional debt obligations to finance the District's multi-year $6.75 billion comprehensive transit expansion plan known as FasTracks. FasTracks contemplates the addition of 122 miles of new light rail and diesel and electric powered commuter rail transit, 18 miles of new bus rapid transit, 57 additional rapid transit stations, over 21,000 new parking spaces at existing and new park-n-Ride lots and improvements to the centralized intermodal facility at Denver Union Station. Under

FasTracks, construction of rapid transit in six new corridors and enhancements and extensions to existing rapid transit in three corridors is planned.

In April 2004, CDOT and the District executed an intergovernmental agreement that is intended to establish a coordinated process to facilitate the implementation of the FasTracks Plan and preserve the ability to pursue planned highway and transit improvements in corridors where both highway and transit improvements are likely to occur. The Board has formally resolved to analyze the FasTracks Plan annually to determine both local and federal sources and adjust the corridor improvements accordingly. The Board has further resolved that construction of FasTracks improvements within a corridor is not to start until there is a firm commitment of all required funding sources and intergovernmental agreements are in place with local governments concerning permits, design and plan review.

As a result of decreases in anticipated sales tax revenues and larger-than-anticipated increases in the costs of the FasTracks Plan, the District is evaluating strategies with affected local governments on how to finance the program, including potentially requesting an increase to the sales tax rate.

Denver Union Station. Under the FasTracks program, the existing Denver Union Station is to be developed into a multi-modal transportation hub, integrating light rail, commuter rail and intercity rail (Amtrak) as well as regional, express and local bus service, the 16th Street Mall shuttle, and intercity buses, taxis, shuttles, vans, limousines, bicycles and pedestrians. In August 2001, the District completed the acquisition of Denver Union Station and certain adjacent land. The District, in cooperation with the City and County of Denver, DRCOG, and CDOT, worked together to prepare a Master Plan and an environmental impact statement for the Denver Union Station property. The Master Plan and EIS work began in May 2002 and the Master Plan components were approved by all four agency partners in the fall of 2004. The Record of Decision was issued by the FTA on October 17, 2008. The project also includes rezoning of the 19.85-acre site to Denver's new transit mixed use district and designation of the historic structure as a Denver historic landmark. See "The PROJECT—Description of the Project" in the main body of this Official Statement for additional information about this FasTracks project.

In 2006, the agency partners solicited proposals for, and selected, a master developer to enter into a public-private partnership to develop the public transportation infrastructure and the vertical, private, transit-supported development on the site. Construction at Denver Union Station started in 2009 under a limited notice to proceed and with closing on full financing for the project scheduled for July, 2010. These improvements are expected to support the District's current and future rapid transit corridor construction plans for the West, East, Gold Line, U.S. 36 and North Metro Corridors.

A case has been filed in the U.S. District Court for the District of Colorado by the Colorado Rail Passenger Association (the "Rail Association") against the FTA, the District, and the Denver Union Station Project Authority challenging the Record of Decision for the Denver Union Station project. If the court determines that the preparation of the environmental impact statement pursuant to the National Environmental Policy Act ("NEPA") was arbitrary, capricious, an abuse of discretion, or contrary to applicable law so that additional analysis under NEPA is required, the Denver Union Station project could be delayed or modified. RTD believes that such a determination by the court is unlikely. The Rail Association has submitted three motions for an emergency temporary restraining order requesting cessation of construction activity with respect to the Denver Union Station project. The U.S. District Court has denied all three motions.

Commuter Rail Maintenance Facility. A commuter rail maintenance facility is being designed to service the four planned commuter rail corridors (East Corridor, Gold Line, North Metro and Northwest Rail Corridor) included in the FasTracks program. See "The PROJECT—Description of the Project" in the main body of this Official Statement for additional information about this FasTracks project.

West Corridor. The West Corridor line is to be a 12.1-mile light rail transit corridor between Denver Union Station and the Jefferson County Government Center in Golden, serving Denver, Lakewood, the Denver Federal Center, Golden and Jefferson County. In June 2001, the District began preliminary engineering and an environmental impact statement for the West Corridor. The final environmental impact statement was issued in October 2003 with a Record of Decision from the FTA received in April 2004. In 2005, the District began final design for the West Corridor. In January 2009, the District was awarded a full funding grant agreement through the

FTA's New Starts program for the West corridor. Under the award, the District is expected to receive approximately $308.68 million over several years. The funds are to be expended on the light rail line approved as part of the District's FasTracks program. Major construction commenced in the West Corridor in 2009.

East Corridor. The East Corridor is designed to be a 22.8-mile commuter rail transit corridor extending from Denver Union Station to Denver International Airport. The District has completed an environmental impact statement for the East Corridor, covering rapid transit improvement and a Record of Decision was signed in November 2009. Final design of the East Corridor is scheduled to begin in 2010 and construction is scheduled to begin in 2011 with completion scheduled for 2016. See "The PROJECT—Description of the Project" in the main body of the this Official Statement for additional information about this FasTracks project.

U.S. 36 Bus Rapid Transit Corridor. The U.S. 36 Bus Rapid Transit Corridor is designed to deliver 18 miles of bus rapid transit service between downtown Denver and Boulder along U.S. Highway 36. The District and CDOT are jointly conducting an environmental impact statement for the U.S. 36 corridor in the general area between downtown Denver and Boulder. A final environmental impact statement was released in 2009. Final design is scheduled to begin in 2010.

Northwest Rail Corridor. The Northwest Rail Corridor is a proposed 41-mile rail transit corridor between Denver Union Station and Longmont. An environmental evaluation is currently being prepared for this corridor. See "The PROJECT—Description of the Project" in the main body of this Official Statement for additional information about this FasTracks project.

North Metro Corridor. The North Metro Corridor is a proposed 18-mile transit corridor between Denver Union Station and 162nd Avenue passing through Denver, Commerce City, Thornton, Northglenn and unincorporated Adams County. The District is proceeding with the preparation of an environmental impact statement for rapid transit corridor improvements in the North Metro Corridor.

Gold Line Rail Corridor. The Gold Line is a proposed 11.2-mile commuter rail corridor from Denver Union Station passing through northern Denver, unincorporated Adams County, Arvada and Wheat Ridge. The District has completed a Final Environmental Impact Statement for the Gold Line, with a Record of Decision was signed in November 2009. See "The PROJECT—Description of the Project" in the main body of this Official Statement for additional information about this FasTracks project.

I-225 Corridor. The I-225 Corridor is a proposed 10.5-mile light rail transit extension that would connect the existing Southeast Corridor with the planned East Corridor and would include eight stations. The I-225 Corridor was approved by the Board in October 2009. Once funding is in place, construction will be able to commence in this corridor.

Corridor Extensions. The Southwest Corridor extension is designed to add 2.5 miles of light rail to an existing 6.7-mile light rail line. The Southeast Corridor extension is designed to add 2.3 miles of light rail to an existing 19.1-mile line. Environmental evaluation studies of the Southwest and Southeast Corridor Extensions are underway, with completion scheduled in early 2010. These studies include basic engineering design as well as planning and environmental evaluations. The Central Corridor extension is designed to connect the existing 5.3-mile downtown light rail service to a station on the planned East Corridor. Environmental evaluation studies of the Southwest, Central and Southeast Corridor Extensions were approved by the Board in February 2010. These studies include base engineering design as well as planning and environmental evaluations.

Transit Development Program

The Transit Development Program (the "TDP") is the District's six-year capital and operating plan adopted annually by the Board in connection with the District's estimated capital and operational expenditures for all programs other than FasTracks. Planning and coordination of FasTracks expenditures are described above under "THE SYSTEM—FasTracks."

The TDP includes projections of annual service levels, the capital requirements to maintain these service levels, and the funding mechanisms through which the operating and capital program are to be achieved. In addition, the TDP is a component of the comprehensive six-year Transportation Improvement Program (the "TIP") adopted biennially by DRCOG for the Denver metropolitan area, as required by federal regulations. A District capital project must be included in the TIP in order to be eligible for federal funds. The six-year TDP is revised annually by the Board in response to factors such as changes in the District's goals and objectives, changes in demographics and development in the District's service area, or unforeseen circumstances affecting forecast revenues. As a result, the six-year TDP may include substantial changes from year to year, with projects being added, deleted and modified on a regular basis.

A TDP was adopted in September 2009, and covers the period from 2010 through 2015. The 2010-2015 TDP contemplates that over such six-year period, the District intends to replace a total of 303 transit buses, 119 articulated buses, 49 intercity buses, 65 medium buses, 36 mall shuttle vehicles, 14 cut-away buses and 80 call-n-Ride vehicles as they reach the end of their useful lives.

DISTRICT SALES TAX

Pursuant to the Act, in September 1973, District voters authorized the District to issue bonds for the purpose of developing a public multi-modal mass transportation system for the District, such bonds to be payable from the District-wide sales taxes imposed at the rate of 0.5% upon every taxable transaction. Effective May 1, 1983, after the State General Assembly eliminated food and utilities from the sales tax base of the District, the Act was amended to empower the District to impose the sales tax at the rate of 0.6% throughout the District. On November 2, 2004, the District voters approved a ballot measure authorizing the District to increase the rate of the sales tax to 1.0% in connection with financing a transit expansion plan known as FasTracks.

The sales tax, which has been imposed and collected in the District since January 1, 1974, is imposed upon every transaction or other incident with respect to which the State imposes a sales tax, except sales tax levied on vending machine sale of food, purchase of machinery or machine tools and sales of low-emitting motor vehicles, power sources for such motor vehicles, or parts used for converting such power sources. Reference is made to Article 26 of Title 39, Colorado Revised Statutes, as amended (the "Sales Tax Act") for a complete description of the transactions subject to or exempt from the State sales tax. The sales tax must be collected at the time of the transaction. One exception to the sales tax being collected at the time of sale applies to the purchase of used automobiles from private parties. If the buyer and seller both live within the District, the sales tax is collected by the county motor vehicle registrar in the county in which the buyer resides at the time that the vehicle is registered. If one or more parties live outside the District, no sales tax is collected. For discussion about the boundaries of the District in which the Sales Tax is levied, see "GENERAL INFORMATION—Organization" herein.

In 1989, the Colorado Supreme Court held that the Act implicitly authorized the District to impose a use tax. Under Colorado law, a use tax is considered supplementary to, and not separate from, a sales tax. Reference is made to the Sales Tax Act for a complete description of the transactions subject to or exempt from the State use tax. The components of use tax liability to the District are (a) tangible personal property, (b) purchased at retail, (c) without prior payment of sales or use tax, and (d) use or consumption in the District. Beginning in April 1989, the State Department of Revenue began collecting a use tax for the District. The sales tax and use tax imposed by the District are collectively referred to herein as the "Sales Tax."

Manner of Collection of the Sales Tax

The Sales Tax. The collection, administration and enforcement of the District's sales tax are performed by the Executive Director of the Colorado Department of Revenue (the "Executive Director") in the same manner as the collection, administration and enforcement of the State sales tax. Legislation enacted in 1987 requires the Executive Director to charge the District for the cost of collection, administration and enforcement after crediting the District with interest earnings on amounts collected.

Any person engaged in the business of selling at retail must obtain a license therefor from the State. The State license is in force and effect until December 31 of the year following the year in which it is issued. Each individual vendor in the District is liable for the amount of tax due on all taxable sales made by him. Before the twentieth day of each month, the vendor, if reporting monthly, must make a return and remit the amount due for the preceding calendar month to the Executive Director. Some small businesses are permitted to remit sales tax collections quarterly. The Executive Director may extend the time for making a return and paying the taxes due. The vendor is entitled to withhold an amount equal to 3-1/3% of the total amount to be remitted to the Executive Director each month in order to cover the vendor's expenses. If any vendor is delinquent in remitting the tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor will not be allowed to retain any amounts to cover the vendor's expenses. The State has temporarily suspended the right of vendors to withhold the monthly amount described above until June 2011, thereby increasing sales tax revenues to the District during such suspension..

The Executive Director is required to furnish the District a monthly listing of all returns filed by retailers in the District. The District must notify the Executive Director within 90 days of any retailers omitted from the listing or thereafter will be precluded from making any further claims based upon such omission. The District receives sales taxes so collected in the form of monthly distributions made to the District by the Executive Director.

Historically, the District has received Sales Tax proceeds about the fifth business day of the second month following receipt thereof by the State Department of Revenue.

The Use Tax. All vehicles must be licensed in each county. Consequently, the motor vehicle use tax is collected by each county during its licensing process and is then remitted to the District periodically pursuant to agreements entered into between such counties, the District and the Executive Director. Other use taxes are collected by the State Department of Revenue and distributed to the District on a monthly basis.

Remedies for Delinquent Taxes

Failure by a retailer to pay the appropriate sales and use taxes collected is punishable pursuant to State law. A statutorily prescribed rate of interest is due on deficiencies from the first date prescribed for payment. Further, if any part of the deficiency is due to negligence or intentional disregard of the regulations with knowledge thereof, but without intent to defraud, 10% of the total amount of the deficiency, plus interest, is to be added to the amount due. If the deficiency is due to fraud with intent to evade the tax, 100% of the total amount of the deficiency is to be added to the amount due, with an additional 3% per month added from the date the return was due until paid. In both instances, the additional amount and interest become due and payable 10 days after written notice and demand by the Executive Director.

The sales tax imposed constitutes a first lien upon the goods and business fixtures of or used by any retailer under lease, title retaining contract or other contract arrangement, except for the stock of goods sold or for sale in the ordinary course of business. Such lien takes precedence over other liens or claims of whatsoever kind or nature. Exempted from the lien are identifiable real or personal property leased to a retailer if the lessee has no right to become the owner and properly registered motor vehicles to the extent an interest is not credited to the lessee.

If any tax, penalty or interest imposed and shown due by returns filed by the taxpayer, or shown as assessments duly made, are not paid within five days after the same are due, the Executive Director issues a notice of the amount due, including a statement as to the lien claimed by the District on the property. If such amount remains unpaid, the Executive Director then issues a warrant to any authorized revenue collector or to the County sheriff commanding him to levy upon, seize and sell sufficient property of the tax debtor to satisfy the amount due, subject to valid preexisting claims or liens. A statutory limitation provides that except in the case of the filing of a false or fraudulent return with the intent to evade tax, no action to collect sales and use taxes due may be commenced more than three years after the date on which the tax is payable.

Any vendor receiving a deficiency notice regarding the payment of sales and use taxes to the District has the right to request the Executive Director to conduct a hearing on the deficiency, and may thereafter appeal the decision to the district court.

Conviction of a violation of any of the State's sales tax statutory provisions is punishable by a fine of no more than $300, or imprisonment for no more than 90 days, or both. Violations also are subject to prosecution and punishment by the State for the violation of State law.

Sales Tax Data

The following table sets forth the District's Sales Tax revenue collections for the past five years and the five-month period ended May 31, 2010:

TABLE III
Historical Sales Tax Revenue
(In Thousands of Dollars)

Year	Collections	Percent Change
2001	$224,648	--
2002	213,668	(4.9)%
2003	210,447	(1.5)
2004	221,276	5.2
2005	386,427[(1)]	74.6
2006	399,557	3.4
2007	418,407	4.7
2008	412,824	(1.3)
2009[(2)]	371,405	(10.0)
Five Months Ended May 31		
2009	144,342	--
2010	154,253	6.8%

(1) The District began collecting revenues generated by the 0.4% Sales Tax Increase in 2005.
Source: The District's Comprehensive Annual Financial Report for the fiscal year ended December 31, 2009.

(2) The District has budgeted $388,754,906 of Sales Tax revenues in 2010 but currently expects to collect $386,390,000 in 2010, representing a 4.0% increase from 2009.

The following table of the District's principal Sales Tax generators by category is based on Sales Tax Revenues for 2009. Because of the confidential nature of the gross sales of the individual entities, the identity of vendors may not be divulged under State law.

TABLE IV
Fifteen Largest Categories of Generators of
Sales Tax 2009

Type of Business	Percent of Total Sales and Use Tax Collections
Food and Drinking Services	11.8%
Retail Motor Vehicles and Auto Parts	11.3
Retail General Merchandisers/Warehouse Stores	10.9
Wholesale Trade	6.0
Information Producers/Distributors	6.5
Retail Building Materials/Home Improvements/Nurseries	5.8
Retail Food and Beverage Stores	5.8
Retail Clothing/Accessory Stores	4.1
Public Utilities	3.4
Manufacturing	4.3
Real Estate/Rental and Leasing Services	3.5
Hotel and Other Accommodation Services	3.5
Retail Sporting Goods/Hobby/Book/Music Stores	3.0
Retail Electronics and Appliance Stores	2.5
Retail Furniture and Home Furnishings	2.6
Other	15.0
Total	100.0%

Source: State of Colorado, Department of Revenue.

Certain counties, municipalities and special districts located within the District also impose sales taxes. Two statutorily created special districts, the Scientific and Cultural Facilities District and the Denver Metropolitan Football Stadium District, cover generally the same geographical area as the District. Each is empowered to levy a 0.1% sales tax. The total sales tax levy, including the State sales tax, the District sales tax and any locally imposed sales tax, ranges in the District from 4.00% in Weld County to 8.25% in the City and County of Broomfield.

The following table shows taxable retail sales within the District for the years 2001 through 2009:

TABLE V
District Net Taxable Retail Sales
(In Millions of Dollars)

Year	City and County of Denver	Boulder County	Jefferson County	Adams County(1)	Arapahoe County(1)	Douglas County(1)	City and County of Broomfield(2)	Other(3)	Total Taxable Transactions	Percent Annual Increase or Decrease
2001	9,278	3,620	5,622	3,947	7,061	1,265	166	961	31,920	0.4
2002	8,827	3,002	5,436	3,915	6,649	1,275	828	664	30,596	(4.1)
2003	8,364	2,965	5,548	3,891	6,694	1,270	858	659	30,250	(1.1)
2004	8,841	3,079	5,659	4,151	6,720	2,143	902	558	32,053	6.0
2005	9,429	3,248	5,823	4,471	6,851	2,463	891	609	33,785	5.4
2006	9,793	3,336	5,952	4,577	6,889	2,562	902	572	34,583	2.4
2007	10,751	3,538	6,185	4,804	7,294	2,616	934	592	36,714	6.2
2008	11,057	3,491	6,043	4,785	7,098	2,524	901	666	36,565	(0.4)
2009	9,269	3,216	5,536	4,240	6,459	2,319	790	474	32,303	(11.7)

(1) Only a portion of each of these counties lies within the District.
(2) Broomfield became a separate city and county on November 15, 2001. Prior to that date, retail sales for Broomfield were included in Boulder, Adams and Jefferson county totals.
(3) Represent taxable transactions that occur within the District's service area but not sales tax collections that occur outside the District's service area.
Source: Colorado Department of Revenue, Statistical Section.

DISTRICT DEBT STRUCTURE

Subject to certain exceptions, including refinancing at a lower interest rate, the State Constitution provides that local governmental entities such as the District may not issue bonds or other multiple-fiscal year financial obligations without the approval of the voters at an election called to approve the debt. See "CONSTITUTIONAL REVENUE, SPENDING AND DEBT LIMITATIONS" herein. The Act does not provide any limitation as to the amount of debt that may be issued by the District. Lease purchase agreements subject to annual termination are not debt or other multiple-fiscal year financial obligations for purposes of State law and therefore do not require voter approval. The following tables summarize the District's outstanding Sales Tax Revenue Bonds and Lease Purchase Agreements, as of December 31, 2009:

TABLE VI
Statement of Obligations
As of December 31, 2009

Sales Tax Revenue Bonds (0.6% Sales Tax)[1][2]	**Outstanding[3]**
District Sales Tax Revenue Bonds, Series 2000A	$17,695,000
District Subordinate Lien Sales Tax Revenue Commercial Paper Notes, Series 2001A	22,000,000
District Sales Tax Revenue Bonds, Series 2002B	31,150,000
District Sales Tax Revenue Refunding Bonds, Series 2003A	3,615,000
District Sales Tax Revenue Bonds, Series 2004A	47,445,000
District Sales Tax Revenue Refunding Bonds, Series 2005A	99,475,000
District Sales Tax Revenue Refunding Bonds, Series 2007A	69,825,000
District Sales Tax Revenue Refunding, Series 2008A	14,210,000
TOTAL	$305,415,000
Sales Tax Revenue Bonds (FasTracks - 0.4% Sales Tax)[4]	
District Sales Tax Revenue Bonds (FasTracks Project), Series 2006A	$235,735,000
District Sales Tax Revenue Refunding Bonds (FasTracks Project), Series 2007	362,695,000
TOTAL	$598,430,000
Lease Purchase Agreements[5]	
Lease Purchase Agreement II (Fixed Rate Certificates of Participation, Series 1998A)	$ 12,415,000
Lease Purchase Agreement II (Fixed Rate Certificates of Participation, Series 2001A)	19,040,000
Adjustable Rate Certificates of Participation (2002A Transit Vehicle Project), Series 2002A[6]	132,400,000
Lease Purchase Agreement II (Fixed Rate Certificates of Participation 2004A Refunding Project), Series 2004A	45,935,000
Certificates of Participation, Series 2005A	65,970,000
Lease Purchase Agreement II (Taxable Refunding Certificates of Participation, Series 2007A)	15,375,000
TOTAL	$291,135,000

(1) Secured by a first lien on the revenues generated by the 0.6% Sales Tax and any additional revenues legally available to the District that the Board in its discretion pledges by supplemental resolution to the payment of such Bonds. The Board has not pledged any additional revenues to secure these outstanding Sales Tax Revenue Bonds.
(2) On January 5, 2010, the District also issued its Sales Tax Revenue Refunding Bonds, Series 2010A in the original aggregate principal amount of $47,625,000.
(3) The District is current on its outstanding obligations.
(4) Secured by first lien on revenues generated by the 0.4% Sales Tax Increase and a subordinate lien on the revenues generated by the 0.6% Sales Tax.
(5) Paid with annually appropriated lease payments by the District. Not secured by Sales Tax Revenues.
(6) The interest on these certificates has been converted to a fixed rate.
Source: The District.

On November 2, 1999, the electors of the District authorized the District to incur $457,000,000 of indebtedness, with no new taxes, exclusively to finance the Southeast Corridor light rail project. The full amount of this authorized indebtedness has been issued or incurred.

At the 2004 Election, the electors of the District authorized the District to incur $3.477 billion of indebtedness to finance FasTracks. See "THE SYSTEM—FasTracks" herein. The District has issued $600,000,000 of bonds pursuant to such authorization. Additional certificates of participation may also be executed and delivered to fund future procurements.

The District has entered into a number of transactions in which certain of its buses and light rail vehicles have been leased to and subleased back from certain U.S. and foreign companies and has entered into a transaction in which its maintenance facilities have been sold to and leased back from one of these companies. As part of each of these transactions, the District irrevocably set aside certain moneys (which were received from each counterparty as payment for its leasing of the buses, light rail vehicles and the real property) with a third-party trustee. The moneys held by such trustees will be utilized to make the lease payments owed by the District with respect to its leasing of these assets and the lease payments owed by the District under the transactions are therefore considered fully funded and economically defeased. See APPENDIX A-1—"Comprehensive Annual Financial Report of the District for the Fiscal Year Ended December 31, 2009."

On December 13, 2006, the District entered into interest rate swap agreements with JP Morgan Chase Bank, N.A. ("JP Morgan"), The Royal Bank of Canada ("RBC") and UBS ("UBS"). The original notional amount of each of the swaps was $200 million and the original termination date for each swap was February 1, 2010. At the time of trade execution, the District planned to issue Sales Tax Bonds and to lock in a long-term fixed rate of approximately 4.5% for $600 million of voter-authorized FasTracks debt to be issued in the future. In order to manage the swaps prior to their cash settlement dates of February 1, 2010, negotiations were initiated with the Counterparties in an effort to limit the District's swap exposure. The current notional amount of each of the swaps is now $198.01 million. A summary of the modifications follows:

1. The swap between the District and JP Morgan was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011 at a cash price to the District of $6.798 million and an increase in the fixed rate from 4.0518% to 4.0718%.

2. The swap between the District and UBS was assumed by Morgan Stanley ("Morgan Stanley"), and the variable rate was converted from the SIFMA index to 79.80% of the 3-month LIBOR index versus a fixed rate reduced from 4.0518% to 3.753%. In addition, the swap was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011 at a cash price to the District of $7.065 million. Additionally, in return for the reduction of the fixed rate, the swap was included with an option for Morgan Stanley to terminate the swap at a $0 value, meaning that no payment would be required from or to the other party.

3. The swap between the District and RBC was converted from the SIFMA index to 77.57% of the 3-month LIBOR index versus a fixed rate reduction from 4.0518% to 3.855% at a cash price to the District of $6.929 million. In return for the reduction in the fixed rate, the District granted RBC an option to terminate the swap at $0 value meaning that no payment would be required from or to the other party. In addition, the swap was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011.

As of June 15, 2010, the termination values of the District swaps were $15.155 million, $18.953 million and $15.430 million, respectively, for the JP Morgan swap, the RBC swap and the Morgan Stanley swap, respectively. Such amounts represent a payment that would have been required from the District to its respective Counterparties to terminate the swaps on June 1, 2010. Such termination values may increase or decrease significantly prior to the respective termination dates of the swaps. See Note D in APPENDIX A-1—"Comprehensive Annual Financial Report of the District for the Fiscal Year Ended December 31, 2009."

FINANCIAL INFORMATION CONCERNING THE DISTRICT

Budget Policy

The District annually prepares and adopts an official budget in accordance with the State Local Government Budget Law. The District's Fiscal Year begins on January 1 and ends on December 31 (the "Fiscal Year"). Prior to October 15 of each Fiscal Year, the General Manager submits an operating and capital budget for the ensuing Fiscal Year to the Board for its approval. The Board may accept the budget with a majority vote or may vote to override all or any part of the proposed budget. After the budget is approved (on or before December 31), in conjunction with an appropriation resolution by the Board, which must also approve subsequent amendments thereto, the General Manager is empowered to administer the operating and capital budget. If the Board fails to adopt a budget by the required date, the District has authority to begin making expenditures limited to 90% of the prior year's approved appropriation.

The District also maintains budgetary controls. These controls ensure compliance with legal provisions embodied in the annual appropriated budget approved by the Board. The budget sets forth proposed outlays for operation, planning, administration, development, debt service and capital outlays. The level of budgetary control (that is, the level at which expenditures may not legally exceed the appropriated amount) is established at the fund level.

Unused appropriations lapse at year-end, except that the Board has the authority, as stated in the adopted appropriation resolution, to carry over the unused portions of the funds for capital projects not completed for a period, not to exceed three years. The District's policy also authorizes the General Manager to approve certain line-item transfers within the budget.

The District's administration utilizes multi-year planning and forecasting methods for budgeting and for capital projects planning. They are believed to be effective in more accurately forecasting the District's financial needs and in programming the capital improvements program to meet its infrastructure requirements. The use of six-year operating and capital improvement forecasts in financial planning has enabled the District to plan necessary revenue measures to meet future operational needs. See "THE SYSTEM—Transit Development Program" herein.

Major Revenue Sources

According to its comprehensive annual financial report for the fiscal year ended December 31, 2009, the District derived 64.8% of its combined operating and non-operating income from Sales Tax revenues, 17.7% from transit operating revenues, 11.9% from federal operating assistance, 5.1% from interest income and 0.5% from other sources. The District has not levied any ad valorem taxes since 1976, although it has the power to do so, subject to certain State constitutional restrictions. See "CONSTITUTIONAL REVENUE, SPENDING AND DEBT LIMITATIONS" herein.

The following table summarizes certain information relating to the District's primary sources of revenue, including Sales Tax Revenues, for the years 2001 to 2009 and five months ended May 31, 2010:

TABLE VII
Revenues by Source[1]
(In Thousands of Dollars)

Year	Operating Revenues[2]	Sales Tax Revenues	Federal Operating Assistance	Interest Income	Other	Total Revenue
2001	$50,641	$224,648	$30,204	$20,614	$2,481	$328,588
2002	52,613	213,668	35,096	18,815	3,493	323,685
2003	54,547	210,447	37,803	10,095	3,550	316,442
2004	61,023	221,276	39,649	9,439	3,621	335,008
2005	62,741	386,427[3]	41,322	15,624	3,484	509,508
2006	69,521	399,557	42,805	29,936	4,032	545,852
2007	81,510	418,407	47,041	57,471	4,706	609,135
2008	92,329	412,824	50,813	52,456	3,106	611,530
2009	101,247	371,405	68,146	29,379	3,283	573,460
2010[4]	41,373	150,514	36,737	4,809	1,268	234,601

(1) Data is taken from the financial records of the District and is presented on the accrual basis.
(2) Comprised almost entirely of passenger fare revenues and advertising revenues.
(3) The District began collecting revenues generated by the 0.4% Sales Tax Increase in 2005.
(4) As of May 31, 2010.
Source: The District's Comprehensive Annual Financial Reports for the fiscal years ended December 31, 2001-2009.

Sales Tax

Both the Sales Tax and property tax are subject to legislative control in that both the tax bases and the tax rates are prescribed by statute and may only be changed by amendments to the Act approved by the State General Assembly or initiated by the voters. See "DISTRICT SALES TAX" herein.

Fare Structure

Passenger fare revenues are derived from fares charged to the users of the District system. Fares may be paid in exact change, by tokens, by prepaid tickets, by using a monthly pass valid for unlimited rides during the month for the level of service purchased, or by using an annual pass sold to employers for use by all employees ("Eco Pass"). Income from the purchase of tokens is recognized at the time the token is used for service on the system. The District fare structure includes free transfers between routes in the same or lower fare classes. Discounted fares also are available for youth, students, seniors and the disabled; the District also sells tokens to social service agencies at a discounted rate. The District does not refund or replace lost or stolen ticket books or passes. Most District prepaid fare media are available through various outlets throughout the District at no charge to the District. Eco Pass annual passes are sold directly to participating employers, and each participating employee is given a photo ID pass.

The District may adjust fares on the system without the approval or consent of any other body or entity. As a recipient of federal grants, the District is obligated to consider comments arising from a public involvement process prior to implementing any fare increases. The current TDP assumes future fare increases corresponding to the projected increase in the Denver-Boulder Consumer Price Index. The District implemented a fare increase on March 3, 2002, which was the first major change in the fare structure since 1997. Fares were adjusted further on January 1st of 2003, 2004, 2006, 2008 and 2009. On July 1, 2006, the District initiated a new fare system for light rail based upon the number of zones a passenger travels in for each one-way trip.

The following tables show the current the District fares:

TABLE VIII
Single Trip Fares

	Fare	Senior/Disabled/ Student[(1)]
Mall Shuttle	Free	Free
Denver, Boulder, Longmont Local	$2.00	$1.00
Light Rail		
1 Zone	2.00	1.00
2 Zones	2.00	1.00
3 Zones	3.50	1.75
4 Zones	4.50	2.25
Express	3.50	1.75
Regional	4.50	2.25
SkyRide		
Zone 1	12.00	6.00
Zone 2	10.00	5.00
Zone 3	8.00	4.00

(1) Seniors include age 65 and older.
Source: The District.

TABLE IX
Multiple Trip Fares

	Regular 10-Ride	Other 10-Ride	Regular Monthly	Other Monthly[(1)]
Denver, Boulder and Longmont Local	$18.00	$ 9.00	$70.00	$35.00
Express	31.50	15.75	128.00	64.00
Regional	40.50	20.25	164.00	82.00

(1) Includes monthly fares for youth, student, disabled and senior patrons. Youth patrons include children ages 6-19. Student includes any student with a school identification card. Seniors include age 65 and older.
Source: The District.

The following table summaries the District's ridership and fare revenue for the years 2001 to 2009 and five months ended May 31, 2010.

TABLE X
District Annual Ridership and Fare Revenue
(In Thousands of Dollars)

Year	Revenue Boardings[1]	Fare Revenue	Percent Change in Fare Revenue
2001	$65,516	$46,766	3.4%
2002	64,167	49,967	6.8
2003	61,235	50,459	1.0
2004	64,721	55,442	9.9
2005	67,994	57,638	4.0
2006	69,867	66,211	14.9
2007	81,714	77,128	16.5
2008	89,254	88,205	14.4
2009	83,337	96,890	9.9
2010[2]	27,968	39,441	--

(1) Totals for 2002-2009 include vanpool. Totals for 2007-2009 include Southeast Corridor light rail.
(2) Through May 31, 2010.
Source: The District's Comprehensive Annual Financial Reports for the fiscal years ended December 31, 2001-2009.

Advertising and Ancillary Revenues

The District receives additional operating revenue from advertising on its buses. The District sells signs on the exterior and interior of its vehicles, and allows advertisers to paint buses with advertising themes. The District also receives ancillary non-operating revenue from parking fees and charges, rent received pursuant to an air right lease at its Civic Center facility, leases of retail space at facilities, cross-border leases and other sources.

The following table shows the District's advertising income and ancillary revenues for the years 2001 to 2009 and five months ended May 31, 2010:

TABLE XI
District Advertising and Ancillary Revenues
(In Thousands of Dollars)

Year	Advertising Revenue	Ancillary Revenues
2001	$3,411	$2,469
2002	2,419	3,493
2003	2,886	3,550
2004	3,047	3,621
2005	3,196	3,484
2006	2,800	4,032
2007	3,194	4,706
2008	2,854	3,106
2009	2,866	3,243
2010[(1)]	1,375	1,268

(1) As of May 31, 2010.
Source: The District's Comprehensive Annual Financial Reports for the fiscal years ended December 31, 2001-2009.

Federal Funding

The District is a designated recipient of federal funds from the FTA. These grants are reserved for capital, planning, technical assistance or operating assistance projects. The following table shows the District's grant receipts from FTA for the years 2001 to 2009 and five months ended May 31, 2010:

TABLE XII
District Federal Grant Receipts
(In Thousands of Dollars)

Year	Federal Capital	Other Local Contributions	Operations, Planning and Other
2001	$87,334	$13,293	$30,204
2002	46,983	3,587	35,096
2003	135,917	4,020	37,803
2004	54,446	17,309	39,649
2005	86,523	10,862	41,322
2006	57,413	4,124	42,805
2007	107,577	7,556	47,041
2008	39,220	169	50,813
2009	129,211	2,500	68,146
2010[(1)]	57,808	0	36,637

(1) As of May 31, 2010.
Source: The District's Comprehensive Annual Financial Reports for the fiscal years ended December 31, 2001-2009.

As a condition of receipt of FTA grants, the District is typically required to augment these grants with certain amounts of its own locally generated funds. As of December 31, 2009, the District had a commitment to provide $25,494,000 in local funds in order to receive $113,261,000 in federal grant funds. The District will be required to provide approximately $210,426,000 in local funds to match 2010 federal appropriations of

$183,160,000. FTA operating assistance is allocated nationally on a formula basis, and cannot exceed 50% of an agency's total operating budget.

As a designated recipient, the District must comply with prevailing statutes, regulations, administrative requirements, executive orders and FTA guidance. These include, but are not limited to, requirements in the areas of labor, seniors and disabled, civil rights, charter bus service, financial reporting, privatization, public participation and environmental regulations. The grant agreements contain substantial conditions and limitations concerning the payment of federal funds, and such payments also may be subject to continuing appropriations by the United States Congress.

Investment Income

For the year ended December 31, 2007, the District earned investment income in the amount of $57,470,842 representing approximately 9.3% of 2007 revenues. For the year ended December 31, 2008, the District earned investment income in the amount of $52,455,696, representing approximately 8.6% of 2008 revenues. For the year ended December 31, 2009, the District earned investment income in the amount of $29,379,000, representing approximately 5.12% of 2009 revenues. The significant investment income in 2007 and 2008 were primarily attributable to interest earned on unexpended proceeds of bonds issued to fund the FasTracks program.

Financial Summary

The following tables summarize certain financial information obtained from the District's comprehensive annual financial reports for the fiscal years ended December 31, 2006-2009 and an unaudited financial report for the five months ended May 31, 2010. The data for the fiscal years ended December 31, 2006-2009 has been prepared by the District from its comprehensive annual financial reports. The data for the five months ended May 31, 2010 has been prepared from its unaudited financial records. For detailed financial information, see APPENDIX A-1—"Comprehensive Annual Financial Report of the District for the Fiscal Year Ended December 31, 2009."

TABLE XIII
Summary of Statements of Revenues and Expenses and Changes in Net Assets/Retained Earnings
For the Years Ended December 31, 2006-2009 and for the Five Months Ended May 31, 2010[(1)]
(In Thousands of Dollars)

	Years ended December 31,				
	2006	2007	2008	2009	Five Months Ended May 31, 2010
Operating Revenues:					
Passenger Fares	$66,211	$77,128	$88,205	$96,890	$39,441
Other	3,310	4,382	4,124	4,357	1,932
Total Operating Revenues	69,521	81,510	92,329	101,247	41,373
Operating Expenses:					
Salaries, wages, fringe benefits	136,733	150,560	155,799	161,747	62,057
Materials and supplies	43,709	49,157	61,056	56,835	19,591
Services	29,865	30,654	36,835	42,783	19,945
Utilities	7,530	8,678	10,575	9,512	4,215
Insurance	5,722	5,090	5,333	3,767	1,967
Purchased transportation	93,003	97,819	102,743	103,975	41,696
Leases and rentals	1,758	2,195	2,464	2,680	1,159
Miscellaneous	3,144	2,390	2,619	6,866	(2,366)
	321,464	346,543	377,424	388,165	148,264
Operating loss before depreciation	(251,943)	(265,033)	(285,095)	(286,918)	(106,891)
Depreciation	67,526	103,302	102,252	106,025	41,692
Operating Loss	(319,469)	(368,335)	(387,347)	(392,943)	(148,583)
Nonoperating Income (expense):					
Sales and use tax revenues	399,557	418,407	412,824	371,405	150,514
Federal operating assistance	42,805	47,040	50,814	68,146	36,637
Interest income	29,936	57,471	52,456	29,379	4,809
Other income	4,031	4,706	3,106	3,243	1,268
Gain/loss capital assets	1,929	1,055	1	40	1
Unrealized Loss Capital Assets	--	--	--	(22,040)	--
Interest expense	(29,689)	(52,272)	(56,273)	(34,179)	(29,068)
Other expense	(805)	(861)	(977)	(997)	(367)
Total Nonoperating Income	447,764	475,546	461,951	414,997	163,794
Net income before capital grants and location contributions	128,296	107,211	74,604	22,054	15,211
Federal capital grants and local contributions	61,537	115,133	39,389	131,711	57,808
Increase in Net Assets	189,833	222,344	113,993	153,765	73,019
Net Assets at Beginning of Year	1,366,240	1,556,073	1,778,417	1,892,410	2,046,175
Prior Period Adjustment	--	--	--	--	--
Net Assets at June 30 Net Assets at End of Year	$1,556,073	$1,778,417	$1,892,410	$2,046,175	$2,119,194

(1) The financial data for the fiscal years ended December 31, 2006–2009 is from the Comprehensive Annual Financial Reports of the District for the fiscal years ended December 31, 2006-2009. The financial data for the five months ended May 31, 2010 is from the District's unaudited financial records.

TABLE XIV
Comparison of Budgeted and Actual Revenues and Expenses(1)
2006-2009
(In Thousands of Dollars)

	2010 Budget	2009 Amended Budget	2009 Actual	2008 Budget	2008 Actual	2007 Budget	2007 Actual	2006 Budget	2006 Actual
Operating Revenues:									
Passenger fares	$ 93,449	$ 93,449	96,890	$ 85,786	$ 88,205	$ 68,633	$ 77,128	$ 63,842	$ 66,211
Other	4,117	4,102	4,357	4,041	4,124	3,791	4,382	3,992	3,310
Total operating revenues	97,566	97,551	101,247	89,827	92,329	72,424	81,510	67,834	69,521
Operating Expenses:									
Salaries, wages, fringe benefits	151,041	149,969	161,747	151,991	155,799	145,579	150,560	136,735	136,733
Materials and supplies	50,262	59,870	56,835	65,665	61,056	52,511	49,157	46,780	43,709
Services	66,434	57,331	42,783	46,827	36,835	45,460	30,654	37,436	29,865
Utilities	9,170	9,805	9,512	10,160	10,575	10,024	8,678	8,257	7,530
Insurance	7,865	5,863	3,767	7,393	5,333	7,244	5,090	6,930	5,722
Purchased transportation	110,972	105,727	103,975	103,354	102,743	98,842	97,819	91,508	93,003
Leases and rentals	2,463	2,982	2,680	4,001	2,464	4,234	2,195	6,121	1,758
Miscellaneous	11,868	2,262	6,866	844	2,619	523	2,340	2,028	3,144
Total Operating Expenses	410,074	393,809	388,165	390,236	377,424	364,417	346,543,	335,795	321,464
Operating Loss	(312,508)	(296,258)	(286,918)	(300,409)	(285,095)	(291,993)	(265,033)	(267,961)	(251,943)
Nonoperating revenue (expense):									
Sales and use tax	388,755	373,193	371,405	427,690	412,825	425,796	418,407	407,328	319,469
Federal operating assistance	84,129	89,275	68,146	53,865	50,813	53,439	47,040	48,812	42,805
Investment income	16,039	23,078	29,379	37,706	52,456	26,457	57,471	20,007	29,936
Other income	1,644	2,590	3,243	3,272	3,106	3,649,950	4,706	3,737	4,032
Gain/loss on capital assets		--	40	--	1	--	1,056	--	1,929
Interest expense	(73,057)	(42,561)	(34,179)	(65,467)	(56,273)	(68,379)	(52,273)	(47,688)	(29,689)
Other expense	--	--	(23,037)	--	(977)	--	(861)	--	(805)
Total Nonoperating Revenue	417,510	445,575	414,997	457,066	461,951	440,963	475,546	432,196	158,790
Proceeds from issue of long-term debt	281,658	62,698	9,478	200,843	17,695	--	627,945	594,855	187.388
Capital Outlay:									
Capital expenses	1,092,269	987,199	410,354	646,087	282,758	480,536	156,785	474,684	273.843
Less capital grants	(212,801)	(267,572)	(131,711)	(81,590)	(39,389)	(138,218)	(115,133)	(80,723)	(61,537)
Long-term debt principal payment	72,893	63,861	65,109	63,040	63,020	55,695	31,340	31,340	128,759
Excess (deficit) of revenue and nonoperating income over (under) expenses, capital outlay and debt principal payments	(565,701)	(571,473)	(206,195)	$(270,037)	(111,838)	$(249,043)	765,466	$333,788	(246,830)
Increases (decreases) to reconcile budget basis to GAAP basis:									
Capital expenditures			410,354		282,758		156,785		273,843
Long-term debt proceeds			(9,478)		(17,695)		(627,945)		(187,388)
Long-term debt principal			65,109		63,020		31,340		128,739
Depreciation			(106,025)		(102,252)		(67,526)		(67,526)
INCREASE IN NET ASSETS			$153,765		$113,993		$258,120		$(99,142)

(1) The District's annual budget is prepared on the same basis as that used for accounting except that the budget also includes proceeds of long-term debt and capital grants as revenues, and expenditures include capital outlays and bond principal payments, and exclude depreciation and gains and losses on disposition of property and equipment.
Source: The District's Comprehensive Annual Financial Reports for the fiscal years ended December 31, 2006-2009.

COMPREHENSIVE ANNUAL FINANCIAL REPORT

The comprehensive annual financial report of the District for the fiscal year ended December 31, 2009 is included herein as APPENDIX A-1. This comprehensive annual financial report has been audited by Bondi & Co. LLC, independent certified public accountants, as stated in their report appearing herein. Such comprehensive annual financial report represents the most current audited financial information for the District. Bondi & Co. LLC has consented to the use of their name and the comprehensive annual financial report for the District in this Official Statement.

GOVERNMENTAL IMMUNITY

The Colorado Governmental Immunity Act, Title 24, Article 10, Part 1, Colorado Revised Statutes, as amended (the "Governmental Immunity Act"), provides in part that public entities are immune from liability in all claims for injury which lie in tort or could lie in tort (regardless of the type or action of the form of relief chosen by the claimant), except to the extent specifically excluded by the Governmental Immunity Act. These exclusions include claims resulting from: (a) the operation, by a public employee during the course of his or her employment, of a motor vehicle that is owned or leased by a public entity; (b) the operation by a public entity of a public hospital, correctional facility or jail; (c) a dangerous condition of a public building or public facility operated by a public entity, including a public water, gas, sanitation, electrical, power or swimming facility; (d) a dangerous condition of a public highway, road or street that physically interferes with the movement of traffic, a dangerous condition caused by a failure to realign traffic signs turned without authorization in a manner that reassigns the right-of-way on intersecting public highways, roads or streets or by a failure to repair traffic control signals on which conflicting directions are displayed or a dangerous condition caused by an accumulation of snow and ice that interferes with access to public buildings when a public entity has actual notice of such condition, has a reasonable time to act and fails to use existing means available to it for removal or mitigation; or (e) the operation and maintenance by a public entity of any public water, gas, sanitation, electrical, power or swimming facility. The Governmental Immunity Act defines "dangerous condition" as a physical condition or use that constitutes an unreasonable risk to the health or safety of the public that is or should have been known to exist and which is proximately caused by the negligent act or omission of the public entity. The maximum amount that may be recovered in any single occurrence on a claim based on one of the exclusions of the Governmental Immunity Act is limited to $150,000 for injury to one person in a single occurrence and $600,000 for an injury to two or more persons in a single occurrence, except that no person may recover in excess of $150,000. The Governmental Immunity Act also specifies the sources from which judgments against public entities may be collected and provides that public entities are not liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct, except as may be otherwise determined by a public entity pursuant to the Governmental Immunity Act.

The District may be subject to civil liability and may not be able to claim sovereign immunity for actions founded upon various federal laws. Examples of such civil liability include, but are not limited to, suits filed pursuant to 42 U.S.C. Section 1983 alleging the deprivation of federal constitutional or statutory rights of an individual. In addition, the District may be enjoined from engaging in anti-competitive practices which violate the antitrust laws. However, the Governmental Immunity Act provides that it applies to any action brought against a public entity or a public employee in any Colorado state court having jurisdiction over any claim brought pursuant to any federal law, if such action lies in tort or could lie in tort.

Pursuant to the Governmental Immunity Act, a public entity may prospectively waive its immunity. The District has waived sovereign immunity for certain types of claims. Specifically, the District has waived immunity for claims arising from its negligent operation of light rail vehicles and for claims arising from the construction of the Southwest Corridor light rail line, up to the limits of its insurance policy covering such claims. See "GENERAL INFORMATION—Insurance" and "THE SYSTEM—Transit Development Program" herein.

CONSTITUTIONAL REVENUE, SPENDING AND DEBT LIMITS

On November 3, 1992, the voters of the State approved an amendment to the State Constitution (the "Amendment") that limits the powers of public entities to borrow, tax and spend.

The Amendment requires voter approval prior to the imposition by the District of a new tax, tax rate increase, mill levy increase, valuation for assessment ratio increase, tax extension or other change in tax policy that results in a net gain of tax revenues or the creation by the District of any multiple-fiscal year direct or indirect debt or other financial obligation, subject to certain exceptions, including refinancing at a lower interest rate. Elections for such voter approval may be held only at a State general election or on the first Tuesday of November of odd-numbered years.

In the absence of voter approval, the Amendment also limits, with certain adjustments, annual percentage increases in District property tax revenues and total revenues, subject to certain exceptions, to the total of inflation plus changes in the actual value of real property within its boundaries. Revenues collected by the District in excess of the limit are required to be refunded during the next calendar year. In addition, in the absence of voter approval, the Amendment limits, with certain adjustments, annual percentage increases in the District spending, subject to certain exceptions, to the total of inflation plus the changes in the actual value of real property within its boundaries. If revenues fall in any calendar year, the lower total becomes the new District base for computing the next year's limits. In addition, on November 2, 1999, the voters of the District voted to exempt the District from the revenue and spending limitations of the Amendment for the purpose of repaying any debt incurred to finance the Southeast Corridor light rail project or operating such project, for as long as any such debt remains outstanding, but in no event beyond December 31, 2026. On November 4, 2004, the voters of the District also exempted the District from any revenue and spending limitations on the revenues generated by the 0.4% Sales Tax Increase and related investment income.

PROPOSED COLORADO FISCAL INITIATIVES

The State Constitution provides that the people of the State reserve to themselves the power to propose laws and amendments to the State Constitution ("Initiatives") and to enact or reject such Initiatives by a vote of the people by Statewide ballot. The Colorado Secretary of State has certified a number of citizen initiatives to be submitted to the Colorado voters on November 2, 2010. Many provisions of each of the two Initiatives described below are unclear and will require judicial interpretation if any of such Initiatives is approved by the voters. The discussion below is accordingly speculative and subject to change.

Proposition 101. An Initiative, designated "Proposition 101," would purportedly eliminate the District sales and use taxes on the first $10,000 of vehicle sales prices (phased in over four yearly equal steps) and eliminate the District sales taxes on vehicle rentals or leases and eliminate sales and use taxes on telecommunication customer accounts. Even if Proposition 101 is adopted, to the extent District bonds and obligations have a lien on sales and use tax revenues created prior to 2011, it is the opinion of bond counsel that Article I, Section 10 of the United States Constitution and Article II, Section 2 of the State Constitution would prohibit application of Proposition 101 in a manner that would interfere with the payment obligations secured by such lien.

Amendment 61. Another Initiative, designated "Amendment 61," provides that after 2010, all borrowings of local governments would require the prior voter approval of the electors of the local government at elections to be held only in November. This Initiative provides that it applies to "any loan, whether or not it lasts more than one year; may default; is subject to annual appropriation or discretion; is called a certificate of participation, lease-purchase, lease-back, emergency, contingency, property lien, special fund, dedicated revenue bond, or any other name; or offers any other excuse, exception, or form" (collectively, "Covered Financings"). Additionally, Amendment 61 would purportedly limit all "direct and indirect borrowings" of the District to an amount equal to 10% of assessed taxable value of real property only within the District. Further, Amendment 61 would, if adopted, purportedly require that future Covered Financings be bonded debt, be subject to prepayment without penalty and mature within 10 years. Amendment 61 also provides that, except for enterprise borrowings, when a Covered Financing is repaid, the tax rates of the District would be required to decline in amount equal to its planned average annual repayment, even if the Covered Financing is not repaid from taxes. If Amendment 61 is adopted, the District's ability to fund or refinance Covered Financings (including sales and use tax bonds, certificates of participation and private activity bonds) incurred after 2010 could be significantly limited, particularly as a result of the 10% assessed valuation limit described above and the requirement that future Covered Financings mature within 10 years.

APPENDIX A-1

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FISCAL YEAR ENDED
DECEMBER 31, 2009

COMPREHENSIVE ANNUAL FINANCIAL REPORT

REGIONAL TRANSPORTATION DISTRICT
1600 BLAKE STREET
DENVER, COLORADO 80202
303.299.6000
RTD-DENVER.COM

RTD

REGIONAL TRANSPORTATION DISTRICT
DENVER, COLORADO

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Fiscal Year Ended December 31, 2009 and 2008

Prepared by Administration
Department, Finance Division

Chief Financial Officer

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INTRODUCTORY SECTION

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Regional Transportation District

April 30, 2010

Board of Directors
Regional Transportation District
Denver, Colorado

In accordance with Colorado statutes and Regional Transportation District bylaws, the enclosed Comprehensive Annual Financial Report of the Regional Transportation District (the District) as of December 31, 2009, has been compiled. Responsibility for the accuracy of the presented data and the completeness and fairness of the presentation, including all disclosures, rests with the District. Management believes the data, as presented, fairly set forth the financial position and operating results of the District. All disclosures necessary to enable the reader to gain the maximum understanding of the financial affairs of the District have been included.

In developing and evaluating the District's accounting system, consideration has been given to the adequacy of internal accounting controls. These controls are discussed by the CFO in the Transmittal letter. Within that framework, we believe the District's internal accounting controls adequately safeguard assets and provide reasonable assurance of the proper recording of financial transactions.

This report has been prepared according to the guidelines recommended by the Government Finance Officers Association of the United States and Canada. In accordance with these guidelines, the accompanying report is presented in three parts:

1. Introductory section, including the Chief Financial Officer's transmittal letter.

2. Financial section containing the Management's Discussion and Analysis, the financial statements, notes thereto and additional information of the District, accompanied by the independent auditor's report.

3. Statistical section, including selected tables of unaudited data depicting the financial history of the District, demographics, and other miscellaneous information.

Colorado law requires the governing bodies of local governments to have an independent audit of the District's financial statements performed. The District has complied with this requirement and has included the report of the independent auditors in the financial section of the RTD report.

Preparation of this annual financial report could not have been accomplished without the dedicated efforts of the entire financial staff. Should you have any questions or comments, please contact me or Terry Howerter, Chief Financial Officer.

Respectfully submitted,
John Tayer
Chair, Financial/Administration Committee

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Regional Transportation District

April 30, 2010

Mr. John Tayer
Chair, Financial/Administration Committee
Regional Transportation District

State law requires that all general-purpose local governments publish within seven months of the close of each fiscal year a complete set of financial statements presented in conformance with generally accepted accounting principles (GAAP) and audited in accordance with generally accepted auditing standards by a firm of licensed certified public accountants. Pursuant to that requirement, we hereby issue the comprehensive annual financial report of the Regional Transportation District for the fiscal year ended December 31, 2009.

This report consists of management's representations concerning the finances of the District. Consequently, management assumes full responsibility for the completeness and reliability of all of the information presented in this report. To provide a reasonable basis for making these representations, management of the District has established a comprehensive internal control framework that is designed both to protect the government's assets from the loss, theft, or misuse and to compile sufficient reliable information for the preparation of the District's financial statements in conformity with GAAP. Because the cost of internal controls should not outweigh their benefits, the District's comprehensive framework of internal controls has been designed to provide reasonable rather than absolute assurance that the financial statements will be free from material misstatement. As management, we assert that, to the best of our knowledge and belief, this financial report is complete and reliable in all material respects.

The District's financial statements have been audited by Bondi & Co. LLC, a firm of licensed certified public accountants. The goal of the independent audit was to provide reasonable assurance that the financial statements of the District for the fiscal year ended December 31, 2009, are free of material misstatement. The independent audit involved examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. The independent auditor concluded, based upon the audit, that there was a reasonable basis for rendering an unqualified opinion that the District's financial statements for the fiscal year ended December 31, 2009, are fairly presented in conformity with GAAP. The independent auditors' report is presented as the first component of the financial section of this report.

The independent audit of the financial statements of the District was part of a broader, federally mandated "Single Audit" designed to meet special needs of federal grantor agencies. The standards governing Single Audit engagements require the independent auditor to report not only on the fair presentation of the financial statements, but also on the audited government's internal controls and compliance with legal requirements, with special emphasis on internal controls and legal requirements involving the administration of federal awards. These reports are in the District's separately issued Single Audit Report.

GAAP requires that management provide a narrative introduction, overview, and analysis to accompany the basic financial statements in the form of Management's Discussion and Analysis

(MD&A). This letter of transmittal is designed to complement the MD&A and should be read in conjunction with it. The District's MD&A can be found immediately following the report of the independent auditors.

THE DISTRICT

The District provides public mass transit service to the Denver metro area. In 1969, the Colorado General Assembly (Assembly) found that public transit was a necessary part of the growing Denver Metropolitan Region. The Assembly found that public sector involvement was the best method to ensure the continuation of this vital component. Thus, the District was created as a political subdivision of the State effective July 1969 "to develop, maintain, and operate a public mass transportation system for the benefit of the inhabitants of the District."

District boundaries now include Jefferson, Boulder, and Denver counties, most of the City and County of Broomfield, and portions of Adams, Douglas, Weld, and Arapahoe counties. Over 2.7 million people, or approximately 55% of the population of Colorado, reside within RTD's 2,337 square mile area.

Since 1983, a fifteen-member board of directors, who are elected by their constituents to serve four-year terms, has governed the District. There are approximately 180,000 voters per director district. The District Board is responsible for setting District policy, overseeing the agency's annual budget, and establishing short and long-range transit goals and plans in concert with local, state, and federal agencies.

The agency employs over 2,500 men and women, making it one of the largest employers in the eight county areas. Besides its administrative headquarters in Denver, RTD has six operating facilities, including three in Denver, one in Aurora, one in Englewood, and one in Boulder.

The financial reporting entity includes all of the financial activities of the District, as well as those activities of its component unit, the RTD Equipment Acquisition Authority, Inc. (the Authority), a nonprofit corporation established to facilitate the District's use of lease/purchase financing.

The District also maintains budgetary controls. These controls ensure compliance with legal provisions embodied in the annual appropriated budget approved by the District's Board of Directors. The budget sets forth proposed outlays for operation, planning, administration, development, debt service, and capital outlays. The level of budgetary control (that is, the level at which expenditures cannot legally exceed the appropriated amount) is established at the project level.

The annual budget serves as the foundation for the District's financial planning and control. All departments of the District are required to submit requests for appropriation to the General Manager on or before August 1st of each year. The General Manager uses these requests as the starting point for developing a proposed budget. The General Manager then presents this proposed budget to the Board of Directors for review prior to October 15th. The Board is required to hold a public hearing on the proposed budget and to adopt a final budget no later than December 31st.

Unused appropriations lapse at year end, except that the Board of Directors has the authority, as stated in the adopted appropriation resolution, to carry-over the unused portion of the funds for capital projects not completed, for a period not to exceed three years. The District's policy also authorizes the General Manager to approve certain line-item transfers within the budget. Budget-to-actual comparisons are provided in the supplemental section of this report.

Factors Affecting Financial Condition

The information presented in the financial statements is perhaps best understood when it is considered in the broader perspective of the specific environment within which the District operates.

The District serves the eight-county region considered the Denver Metro area. It is the most populated area of the state and the economic barometer of Colorado. Employment in the Denver Metro area is dominated by small business. According to the U.S. Department of Commerce statistics, nearly 97.8% of the 81,500 businesses in the Denver Metro area have fewer than 100 employees. There are approximately 64 business establishments in the Denver metro area that have 1,000 or more employees. The 10 largest private employers are listed in the statistical section of this report.

The Colorado Legislative Council in its December 2009 report forecasts that economic recession has subsided and a slow recovery has begun. Economists for the Colorado Legislative Council reported the following key economic indicators.

Key Economic Indicators	2008 Actual	2009 Forecast	2010 Forecast
Job Growth	0.8%	-4.2%	-0.4%
Unemployment	4.9%	7.3%	8.4%
Personal Income	3.3%	-1.5%	2.3%
Population	2.0%	1.8%	1.6%
Inflation	3.9%	-0.9%	0.6%

On November 3, 1992, the voters of Colorado approved a Constitutional Amendment (the "Amendment") that limits taxes, revenue, and spending for state and local governments effective December 31, 1992. On November 7, 1995, the voters of the District exempted the Regional Transportation District from the revenue and spending limitations concerning the Amendment through December 31, 2005. On November 2, 1999, the voters of the District further exempted the District from the revenue and spending limitations outlined in the Amendment for the purpose of paying any debt incurred to finance the Southeast Corridor light rail project or to operate such project for as long as any debt remains outstanding, but in no event beyond December 31, 2026.

On November 2, 2004, the voters of the District authorized an increase in the District's sales and use tax rate from 0.6% to 1.0%, effective January 1, 2005, to finance the FasTracks transit improvement program. This authorization also exempted the District from any revenue and spending limitations on the additional tax and on any investment income generated by the increased tax revenue, and allowed the District to incur debt to finance the capital improvements included in the FasTracks program. At the time that all FasTracks debt is repaid, the District's sales and use tax rate will be reduced to a rate sufficient to operate the transit system financed through FasTracks.

Long-term Financial Planning

Each year the Board of Directors adopts a financially constrained Transit Development Program (TDP) that is the six-year operating and capital improvement plan of the Regional Transportation District. It reflects the District's plans for service and capital improvements excluding Fastracks. On September 15, 2009, the Board adopted the 2010-2015 TDP. Highlights of the TDP will be the replacement of 586 transit buses, 515 access-a-ride vehicles, and 80 call-n-Ride vehicles during the

TDP timeframe. Another highlight of the TDP will be funding for park-n-Ride maintenance improvements, passenger security enhancements, and maintenance of administrative facilities.

In addition to the TDP, the District is planning and constructing the build-out of a $6.5 billion transit expansion plan ("FasTracks"). FasTracks entails the addition of six new light-rail lines and diesel-powered commuter rail lines, 21,000 new parking spaces, the redevelopment of Denver Union Station, and expanded bus service throughout the eight county District. Each year, the District conducts a comprehensive evaluation of the entire FasTracks program, called an Annual Program Evaluation. RTD has worked closely with elected officials, local governments, corridor stakeholders and the public to identify how to move the FasTracks program forward.

FINANCIAL INFORMATION

RTD management is responsible for establishing and maintaining an internal control structure designed to ensure that the District's assets are protected from loss, theft, or misuse and that adequate accounting data are compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles. RTD has designed its internal control structure to provide reasonable, but not absolute, assurances that these objectives are met. The concept of reasonable assurance recognizes that: (1) the costs of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgment by management.

Single Audit: As a recipient of federal assistance, the District is responsible for ensuring that an adequate internal control structure is instituted to ensure compliance with applicable laws and regulations related to those programs. This internal control is subject to periodic evaluation by management and the District internal audit staff.

As part of the District's single audit described earlier, tests are made to determine the adequacy of the internal control structure, including that portion related to federal financial assistance programs, as well as to evaluate the District's compliance. The District's single audit for the fiscal year ended December 31, 2009 found no instances of material weakness in the internal control structures or significant violations of applicable laws and regulations. A separate report was prepared for this purpose.

Debt Administration: The District formulates its debt policy to protect its credit ratings and soundly manage its assets and liabilities. Included in this policy is a requirement that debt will not be used to finance current operations. Another requirement precludes financing capital projects beyond the useful life of the project. Additional policies go beyond these essential guidelines and result in further protection. Currently, the District has a dual rating for its sales tax credit of 1.0%. Moody's Investors Service rates the District's sales tax credit as "Aa3", Standard and Poor's Corporation rates the District's sales tax credit "AAA" and Fitch Ratings rates the District's sales tax credit "AA" that are secured by the District's 0.6% sales tax. Moody's Investors Service rates the District's sales tax credit as "Aa3", Standard and Poor's Corporation rates the District's sales tax credit "AA+" and Fitch Ratings rates the District's sales tax credit "AA-" that are secured by the District's 0.4% sales tax.

Cash Management: The main objective of the District's cash management program is the protection of investment principal while providing optimal levels of cash throughout the year. The District's investment policy is modified periodically to adapt to changes in eligible investments, benchmarks, and specific objectives.

During the year, the District invested its cash in various investment vehicles including money market funds, U.S. Treasury securities, agency securities, discount notes, commercial paper, repurchase agreements, and variable and fixed rate mortgage-backed securities. The total average return on investments for the year was 3.3%.

Risk Management: The District employs a combination of self-insurance and purchased insurance in its efforts to protect assets and control and prevent losses.

The areas of self-insurance are Worker's Compensation and liability. The District is self-insured for liability, the limits of which are $150,000 per person and $600,000 per occurrence as specified under the Colorado Governmental Immunity statute. The self-insured retention for Workers' Compensation claims is $2,000,000 per claim, with any amounts above this covered by purchased insurance up to the legal limits of liability under the Colorado Workers Compensation statute.

Commercial insurance policies provide property coverage up to $300,000,000 for buildings, their contents, and rolling stock (other than collision); a Commercial Crime Policy and Faithful Performance Bond; a $3,500,000 Workers' Compensation Bond; Felonious Assault Policy; travel insurance for employees on District business; fidelity coverage on the Trustees of the Union Pension Trust, Salaried Pension Trust, Represented Health and Welfare Union Trust, Legal Trust, and the employees administering the health benefits program for salaried employees. With the addition of Light Rail Trains (LRT), the District has added Railroad Protective and Railroad Liability commercial insurance policies that provide coverage when required under operational needs.

The Risk Management division coordinates these programs internally for the District.

OTHER INFORMATION

Independent Audit: State statutes require an annual audit by independent certified public accountants. The accounting firm of Bondi & Co. LLC was selected to perform the 2009 audit. This audit also was designated to meet the requirements of the Federal Single Audit Act amendments of 1996 and related OMB Circular A-133. The auditors' report on the financial statements and schedules are included in the financial section of this report. The auditors' reports related specifically to the single audit are included in a separate report.

Awards: GFOA awarded a Certificate of Achievement for Excellence in Financial Reporting to the Regional Transportation District for its comprehensive annual financial report for the fiscal year ended December 31, 2008. This is the seventeenth consecutive year, after a two-year absence from the program, that the District has been awarded this prestigious award.

In order to receive the Certificate of Achievement for Excellence in Financial Reporting, the District must publish an easily readable and efficiently organized comprehensive annual financial report, the contents of which must conform to program standards. This report must also satisfy both generally accepted accounting principles and applicable legal requirements.

The Certificate of Achievement is valid for one year only. We believe our current comprehensive annual financial report meets the program's requirements and we are submitting it to the GFOA to determine its eligibility for another certificate.

Acknowledgements: Preparation of the comprehensive annual financial report on a timely basis was made possible by the dedicated services of the entire staff of the Finance Division. Each

member of the division has our sincere appreciation for the contributions made in the preparation of this report.

Finally, without the leadership and support of the members of the District's Board, preparation of this report would not have been possible.

Sincerely,

Terry L. Howerter
Chief Financial Officer

Board of Directors

RTD's governing body is a 15-member elected Board of Directors, with each member elected from one of the fifteen districts comprising RTD's service area. Each district is apportioned equally by population and most districts cross county boundaries. The districts are assigned letter designations from "A" to "O". The following are the members of the Board of Directors as of January 2009:

District A
Bill James
Denver/Arapahoe Counties

District B
Christopher Martinez, First Vice Chairman
Denver/Adams Counties

District C
Juanita Chacon
Denver/Adams/Jefferson Counties

District D
Barbara Brohl
Denver/Jefferson/Arapahoe Counties

District E
William G. McMullen
Denver/Arapahoe Counties

District F
Tom Tobiassen
Arapahoe County

District G
Jack O'Boyle
Arapahoe/ Douglas Counties

District H
Kent Bagley
Arapahoe/ Douglas Counties

District I
Lee Kemp, Chairman
Boulder/Broomfield/Adams/Weld Counties

District J
William M. Christopher
Adams/Jefferson/Broomfield Counties

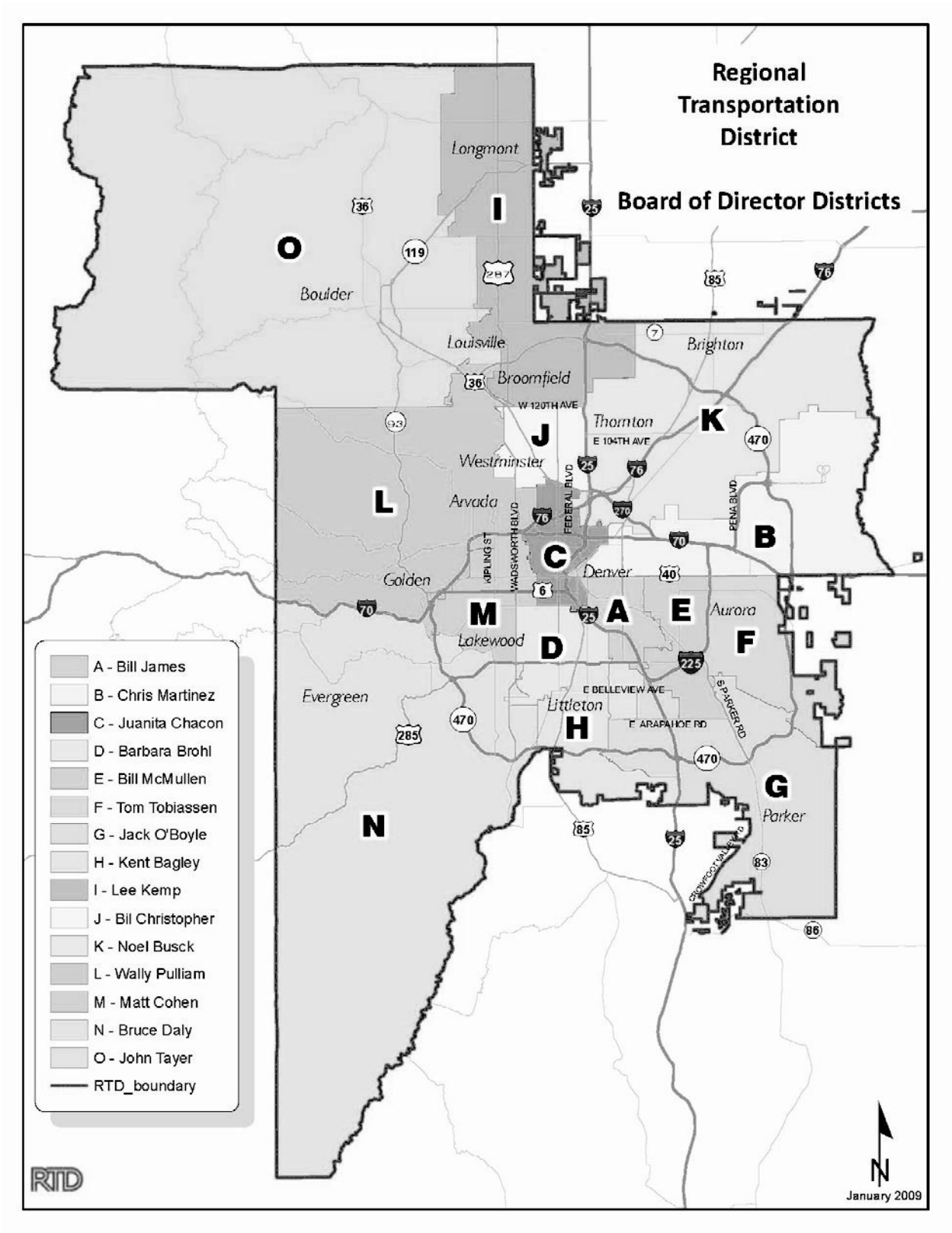
District K
Noel Busk, Second Vice Chairman
Adams County

District L
Wallace Pulliam
Jefferson/Boulder/Broomfield Counties

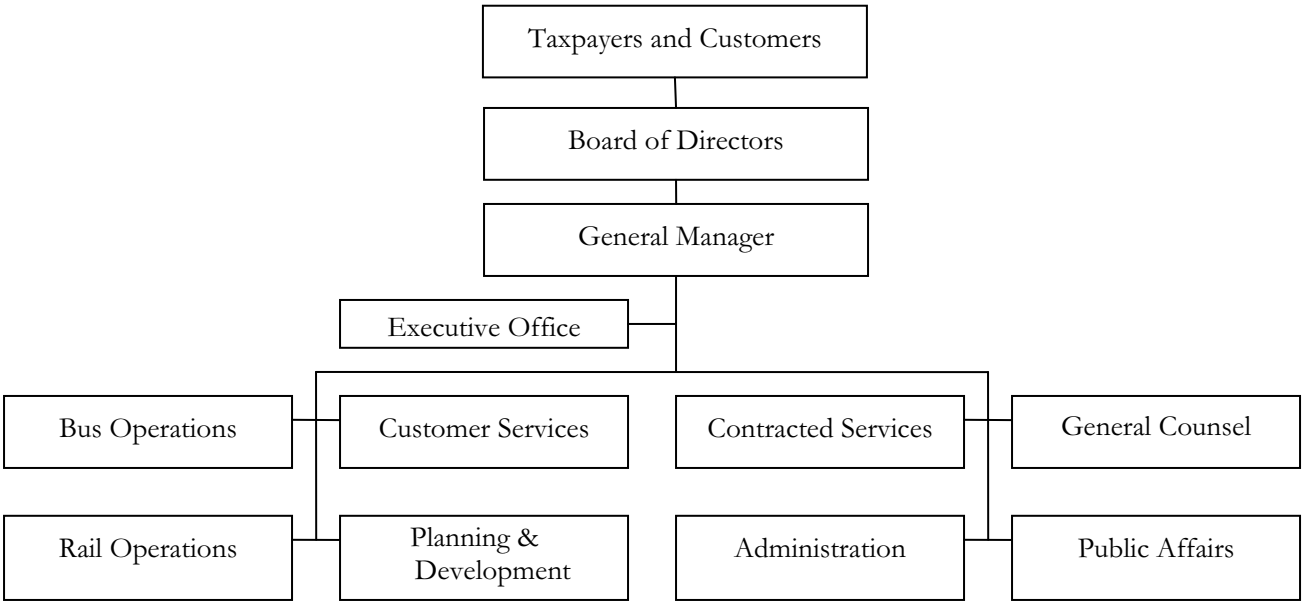
District M
Matt Cohen
Jefferson County

District N
Bruce Daly, Secretary
Jefferson/Denver Counties

District O
John Tayer, Treasurer
Boulder County


Regional Transportation District
Board of Director Districts
Longmont
Boulder
Louisville
Broomfield
Brighton
Thornton
Westminster
Arvada
Golden
Denver
Aurora
Lakewood
Littleton
Evergreen
Parker
W 120TH AVE
E 104TH AVE
E BELLEVIEW AVE
E ARAPAHOE RD
S PARKER RD
KIPLING ST
WADSWORTH BLVD
FEDERAL BLVD
PENA BLVD
A - Bill James
B - Chris Martinez
C - Juanita Chacon
D - Barbara Brohl
E - Bill McMullen
F - Tom Tobiassen
G - Jack O'Boyle
H - Kent Bagley
I - Lee Kemp
J - Bil Christopher
K - Noel Busck
L - Wally Pulliam
M - Matt Cohen
N - Bruce Daly
O - John Tayer
RTD_boundary
RTD
January 2009

Organization Chart



Department Officials

General Manager
Phillip A. Washington

AGM, Bus Operations
Mike Gil

AGM, Rail Operations
Cal Shankster

AGM, Contracted & Customer Service
Bruce Abel

AGM, Safety, Security & Facilities
Dave Genova

AGM, Planning and Development
William C. Van Meter

General Counsel
Marla L. Lien

AGM, Administration
Terry Howerter

AGM, Public Affairs
Scott Reed

AGM, FasTracks/Engineering
Richard Clarke

Certificate of Achievement for Excellence in Financial Reporting

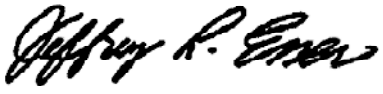
Presented to

Regional Transportation District, Colorado

For its Comprehensive Annual
Financial Report
for the Fiscal Year Ended
December 31, 2008

A Certificate of Achievement for Excellence in Financial Reporting is presented by the Government Finance Officers Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial reports (CAFRs) achieve the highest standards in government accounting and financial reporting.

President



Executive Director

FINANCIAL SECTION

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BONDI & Co. LLC
CERTIFIED PUBLIC ACCOUNTANTS
MANAGEMENT CONSULTANTS

44 INVERNESS DRIVE EAST
ENGLEWOOD, COLORADO 80112
www.bondico.com

(303) 799-6826 PHONE
(800) 250-9083 TOLL-FREE
(303) 799-6926 FAX

Board of Directors
Regional Transportation District
Denver, Colorado

Independent Auditors' Report

We have audited the accompanying basic financial statements of the Regional Transportation District (District), as of and for the years ended December 31, 2009 and 2008, as listed in the table of contents. These financial statements are the responsibility of the District's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to previously present fairly, in all material respects, the financial position of the District as of December 31, 2009 and 2008, and the changes in its financial position and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report, dated May 5, 2010, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audits.

Board of Directors
Regional Transportation District
Denver, Colorado

The Management's Discussion and Analysis, on pages 23 through 36, is not a required part of the basic financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the financial statements that collectively comprise the District's basic financial statements. The introductory section, statistical tables, debt disclosure tables, and schedule of expenses and revenue – budget and actual – budgetary basis are presented for purposes of additional analysis and are not a required part of the basic financial statements. The schedule of expenses and revenue – budget and actual – budgetary basis has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects, in relation to the basic financial statements taken as a whole. The introductory section, statistical tables, and debt disclosure tables have not been subjected to the auditing procedures applied in the audits of the basic financial statements and, accordingly, we express no opinion on them.

Bondi & Co. LLC

May 5, 2010 ***BONDI & Co. LLC***

The management of the Regional Transportation District (RTD or District) offers users of our financial statements this narrative overview and analysis of the financial activities for the years ended December 31, 2009 and 2008. This discussion and analysis is designed to assist the reader to focus on significant financial activities and identify any significant changes in the financial position of RTD. It should be read in conjunction with the financial statements that follow this section. All amounts, unless otherwise indicated, are expressed in thousands of dollars.

Financial Highlights

As of December 31, 2009 and 2008, total assets of the District exceeded total liabilities $2,046,175 and $1,892,410, respectively. The amount of unrestricted net assets as of December 31, 2009 was $132,035 compared to $143,913 in 2008.

The net assets of the District increased by $153,765 during the current year compared to an increase of $113,993 in the previous year. The increases in both years are due to higher operating revenues, and grant revenue, net of increases in operating expenses and non-operating expenses.

The District's total debt decreased $65,109 (5.0%) and $65,400 (4.8%) in 2009 and 2008, respectively. The decreases in both years are primarily due to scheduled payments for commercial paper and other debt obligations.

The District's sales and use tax revenue decreased $41,419 (10.0%) in 2009 after a decrease of $5,583 (1.3%) in the previous year.

Capital grants and local contributions increased $92,322 (234.4%) in 2009 after a decrease of $75,744 (65.8%) in the previous year. The increase in 2009 is due to an increase in receipt of grant funds and local contributions for the West Corridor Full Funding Grant Agreement and ARRA capital projects.

For the 2009 year, total operating expenses exceeded total revenues resulting in a loss before non-operating revenue and expenses of $392,943 compared to $387,347 for 2008. The loss in 2009 is higher than 2008 due to increased expenses from American Recovery and Reinvestment Act (ARRA) projects which were partially offset by increased operating revenue. The District anticipates operating losses, as these losses are subsidized by non-operating sales and use tax and grant revenues.

Basic Financial Statements

Management's Discussion and Analysis serves as an introduction to the District's basic financial statements. The District's financial statements are prepared using proprietary fund (enterprise fund) accounting that uses the same basis of accounting as private-sector business enterprises. Under this method of accounting, an economic resources measurement focus and an accrual basis of accounting is used. Revenue is recorded when earned and expenses are recorded when incurred. The basic financial statements are comprised of four components: statements of net assets; statements of revenues, expenses and changes in net assets; statements of cash flows; and notes to the financial statements.

The statements of net assets present information on the assets and liabilities, with the differences between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The statements of revenues, expenses, and changes in net assets present information on operating revenues and expenses and non-operating revenues and expenses of the District for the fiscal year with the difference, the net income or loss, combined with any capital grants to determine the change in assets for the year. That change combined with the previous year-end total net assets reconciles to the net asset total at the end of the respective fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the changes occurs, regardless of the timing of the related cash flows.

The statement of cash flows reports cash and cash equivalent activities for the fiscal year resulting from operating activities, capital, and related financing activities, noncapital and related financing activities and investing activities. The result of these activities added to the beginning of the year cash balance reconciles to the cash and cash equivalents balance at the end of the current fiscal year. The statement of cash flows, along with the related notes and information in other financial statements, can be used to assess the following: the District's ability to generate positive future cash flows and pay its debt as the debt matures; the reasons for differences between the District's operating cash flows and operating income (loss); and the effect of investing, capital, and financing activities on the District's financial position.

The notes to the financial statements provide additional information that is essential to fully understand the data provided in the statements of net assets, statements of revenues, expenses, and changes in net assets, and statements of cash flows.

The District provides bus, paratransit, and light rail service in a 2,337 square mile area in and around Denver, Colorado. The activities of the District are supported by a .6% and .4% sales and use tax collected within the district. The .6% sales and use tax is used to fund the base operations of the District. The base system operations provide the bus and current light rail services in the Denver area. The .4% sales tax funds the FasTracks build out program and provides for enhanced transit services in the District. Additional revenue sources include fare collections, federal, state, and local financial assistance, interest income, and other income such as advertising and rental income.

Financial Analysis

Condensed Financial Information - Condensed financial information from the statements of net assets and statements of revenues, expenses, and changes in net assets is presented below.

Statements of Net Assets - As of December 31, 2009 and 2008, total assets of the District exceeded total liabilities $2,046,175 and $1,892,410 respectively. The largest portion of this excess, 71.2% in 2009 and 70.7% in 2008, was invested in capital assets, net of related debt. The District uses these capital assets to provide public transportation services to customers; consequently, these assets are not available for future spending. Although the District investment in capital assets is reported net of related debt, it should be noted that funding required to repay this debt will be obtained from other sources such as sales and use tax, since the capital assets themselves cannot be used to pay the related debt. The amount of unrestricted net assets as of December 31, 2009 was $132,035 compared to $143,913 in 2008. Substantially all of the unrestricted net assets, although not

December 31, 2009 and 2008 (Dollars in Thousands)

legally restricted, have been appropriated or reserved by the District's Board for future capital acquisition, operating reserve policy, and debt liquidation during the budget process.

Condensed Summary of Assets, Liabilities, and Net Assets

	2009	2008	2007
Assets:			
Current assets	$ 457,402	$ 326,098	$ 476,175
Current assets - restricted	393,339	596,196	664,147
Capital assets (net of accumulated depreciation)	2,361,845	2,095,135	1,914,674
Other noncurrent assets	213,873	295,791	189,228
Total assets	3,426,459	3,313,220	3,244,224
Liabilities:			
Current liabilities	199,107	188,683	202,245
Noncurrent liabilities	1,181,177	1,232,127	1,263,562
Total liabilities	1,380,284	1,420,810	1,465,807
Net assets:			
Invested in capital assets, net of related debt	1,456,493	1,338,453	1,174,217
Restricted	457,647	410,044	429,650
Unrestricted	132,035	143,913	174,550
Total net assets	$ 2,046,175	$ 1,892,410	$1,778,417

Current assets increased $131,304 (40.3%) in 2009 primarily due a note issued to Denver Union Station Authority (DUSPA) for advanced construction and a limited notice to proceed with Denver Union Station construction of $25,562, West Corridor grant receivable of $61,086 and $20,791 prepaid expense to be amortized in 2010 and 2011.

In 2009, capital assets net of accumulated depreciation increased $266,710 (12.7%) primarily due to the acquisition of revenue equipment, land, and construction in progress for the FasTracks program.

The District's net assets increased $153,765 in 2009. The investments in capital asset, net of related debt increased $118,040 (8.8%) primarily due to the acquisition of equipment, land, design, and construction cost related to the FasTracks programs.

Statements of Revenue, Expenses, and Changes in Net Assets – The following summary of revenues, expenses, and changes in net assets shows the activities of the District resulted in an increase in net assets. The net assets of the District increased by $153,765 during the current year compared to an increase of $113,993 in the previous year. The increases in both years were due to higher operating revenues and grant revenue income, net of increases in operating expenses and non-operating expenses. The key elements of the changes in net assets for the fiscal years ended December 31, 2009 and 2008 with comparative information for 2007 are shown in the following table.

December 31, 2009 and 2008 (Dollars in Thousands)

Summary of Revenues, Expenses, and Changes in Net Assets

	2009	2008	2007
Operating revenue:			
Passenger fares	$ 96,890	$ 88,205	$ 77,128
Advertising and other	4,357	4,124	4,382
Total operating revenue	101,247	92,329	81,510
Operation expenses:			
Salaries and wages	117,355	118,417	113,742
Fringe benefits	44,392	37,382	36,818
Materials and supplies	56,835	61,056	49,157
Services	42,783	36,835	30,654
Utilities	9,512	10,575	8,678
Insurance	3,767	5,333	5,090
Purchased transportation	103,975	102,743	97,818
Leases and rentals	2,680	2,464	2,195
Miscellaneous	6,867	2,619	2,391
Depreciation	106,024	102,252	103,302
Total operating expenses	494,190	479,676	449,845
Operating loss	(392,943)	(387,347)	(368,335)
Non-operating revenues (expenses):			
Sales and use tax	371,405	412,824	418,407
Federal operating assistance	68,146	50,814	47,041
Investment income	29,379	52,456	57,471
Other income / Gain on Sale of Assets	3,283	3,107	5,761
Interest expense	(34,179)	(56,273)	(52,272)
Other expense/ Unrealized Loss on Assets	(23,037)	(977)	(862)
Net nonoperating revenue (expenses)	414,997	461,951	475,546
Income before capital contribution	22,054	74,604	107,211
Capital grants and local contributions	131,711	39,389	115,133
Increase in net assets	$ 153,765	$ 113,993	$ 222,344

The information contained in the condensed information table is used as the basis for the revenue and expense discussion presented below; surrounding the District's activities for the fiscal years ended December 31, 2009, 2008, and 2007

Revenues

Passenger fares – Passenger fares provided 14% of the District's total revenues in 2009 and 2008, respectively. Farebox receipts, monthly and annual pass revenue, and special event fares for bus and rail services are included in the passenger fares. Passenger fares increased by $8,685 (9.8 %) in 2009 compared to an increase of $11,077 (14.4%) in 2008. The increase in 2009 was due to a 14% fare increase implemented in January 1, 2009 offset by a reduction in ridership. The increase in 2008 was due to an 8.0% increase in ridership and a fare increase effective January 1, 2008.

Advertising and other – Advertising income includes revenues from advertisements primarily on and inside of the District's buses. Advertising and other income increased $233 (5.6%) in 2009 compared to a $258 (5.9%) decrease in 2008. The increase in 2009 was primarily due to an increase in joint venture revenue on routes where a governmental entity has purchased service beyond RTD service standards.

Sales and Use Tax – Sales and use tax provides 53% and 63% of the District's total revenues in 2009 and 2008 respectively. Sales and use tax is a dedicated 1% tax imposed on certain sales within the service area. Sales and use tax decreased $41,419 (10.0%) in 2009 compared to a decrease of $5,583(1.3%) in 2008. The District experienced an economic downturn in 2009 resulting in a decrease in sales and use revenue compared to slowing economic growth in 2008.

Federal operating assistance – Federal operating assistance increased $17,332 (34.1%) in 2009 compared to an increase of $3,773 (8.0%) in 2008. The operating assistance is a federal grant revenue program used to perform capital maintenance and maintain the District's revenue fleet of bus, paratransit, and rail vehicles. The increase in 2009 was due to the U. S Congress adoption of the American Recovery and Reinvestment Act of 2009 (ARRA), and the application of Federal Transit Administration (FTA) capital maintenance funds to private carriers and rail car maintenance. The increase in 2008 is due to the growth in service levels provided by the District and an increase in the funds made available by the FTA.

Investment Income – Investment income decreased $23,077 (44.0%) in 2009 compared to a $5,015 (8.7%) decrease in 2008. The decrease in 2009 and 2008 was due to lower interest rates and a smaller investment balance.

Other Income/ Gain on sale of Assets – Other income increased $176 (5.7%) in 2009 compared to a $2,654 (46.1%) decrease in 2008. Other income includes rental income from retail space, parking, air-rights, and miscellaneous other items.

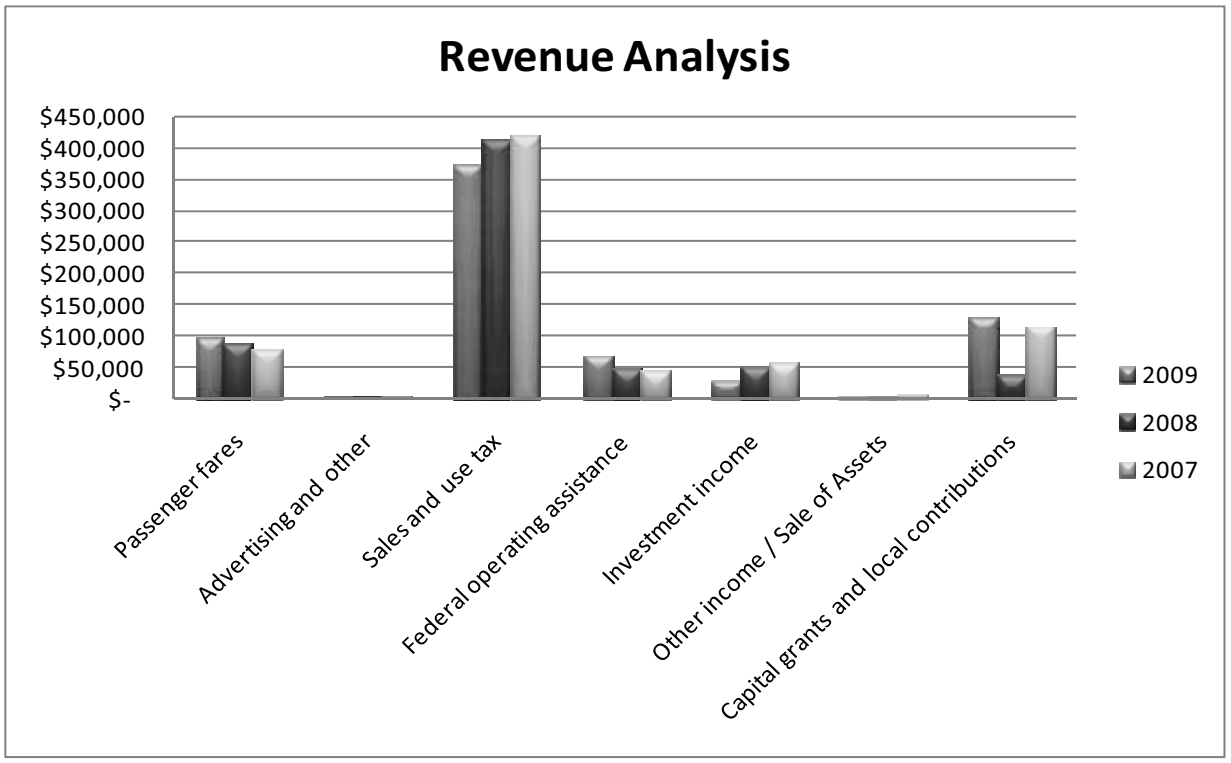
December 31, 2009 and 2008 (Dollars in Thousands)

Capital grants and local contributions – Capital contribution provided 19% and 6% of the District's total revenues in 2009 and 2008, respectively. Capital grants and local contributions include federal and local contributions. Capital contributions increased $92,322 (234.4%) in 2009 compared to a decrease of $75,744 (65.8%) in 2008. The increase in 2009 was due to an increase of activities related to a full funding grant agreement for West Corridor and ARRA grants received in 2009. The decrease in 2008 due to a decrease in activities related to a full funding grant agreement for the Southeast Corridor.

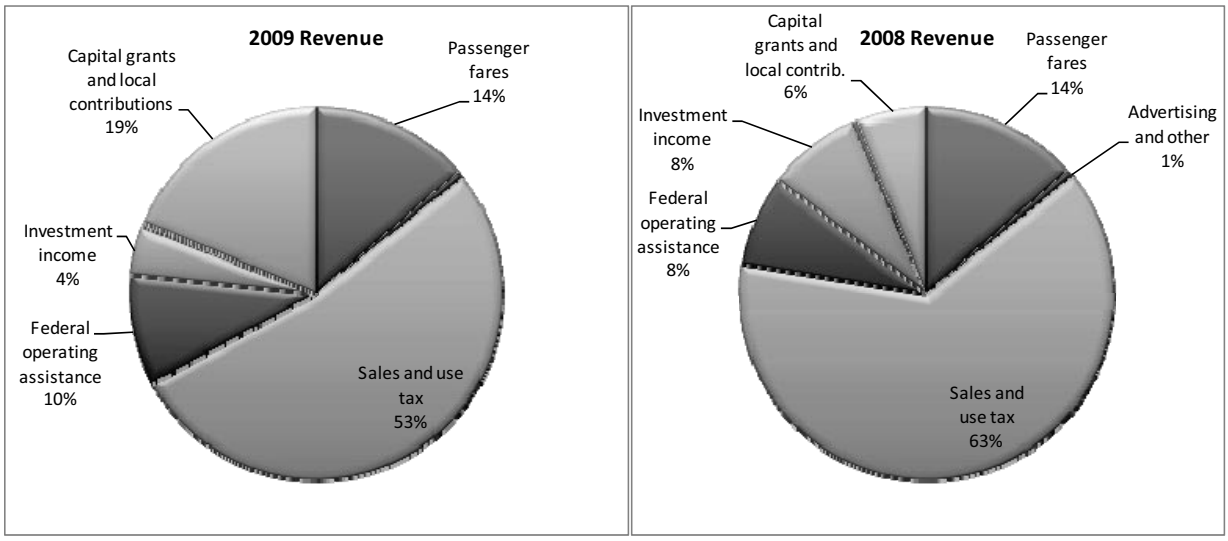
The following schedule and charts show the major sources of operating revenue for the years ended December 31, 2009, 2008, and 2007.

Revenue Analysis

	2009	2008	2007
Revenues			
Passenger fares	$ 96,890	$ 88,205	$ 77,128
Advertising and other	4,357	4,124	4,382
Sales and use tax	371,405	412,824	418,407
Federal operating assistance	68,146	50,814	47,041
Investment income	29,379	52,456	57,471
Other income / Sale of Assets	3,283	3,107	5,761
Capital grants and local contributions	131,711	39,389	115,133
Total Revenues	$ 705,171	$ 650,919	$ 725,323



December 31, 2009 and 2008 (Dollars in Thousands)

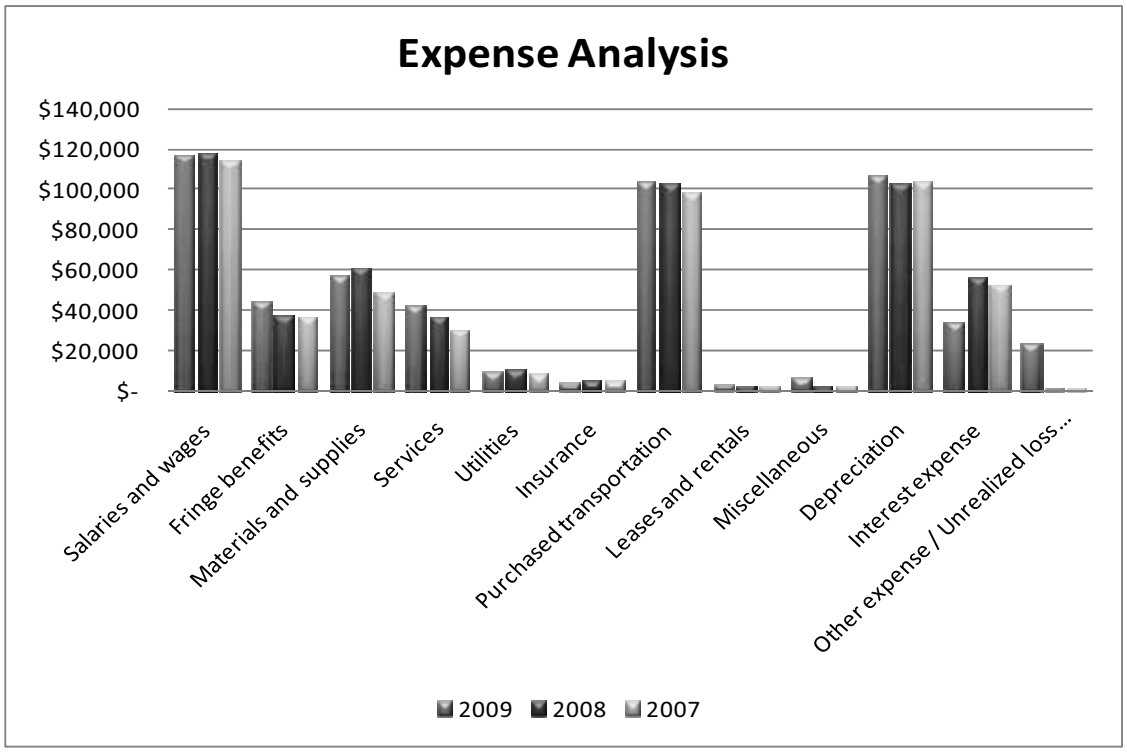


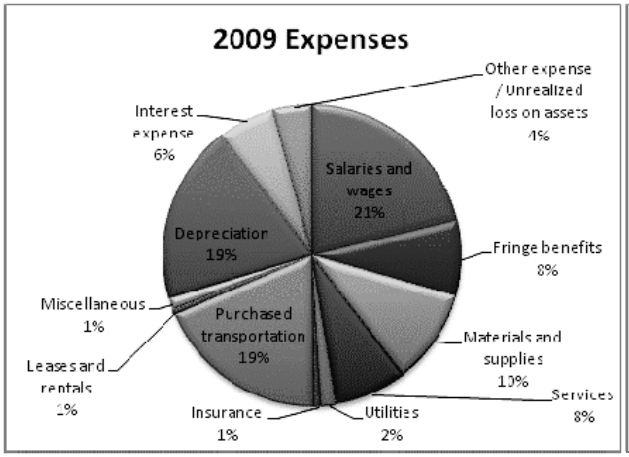
Expenses

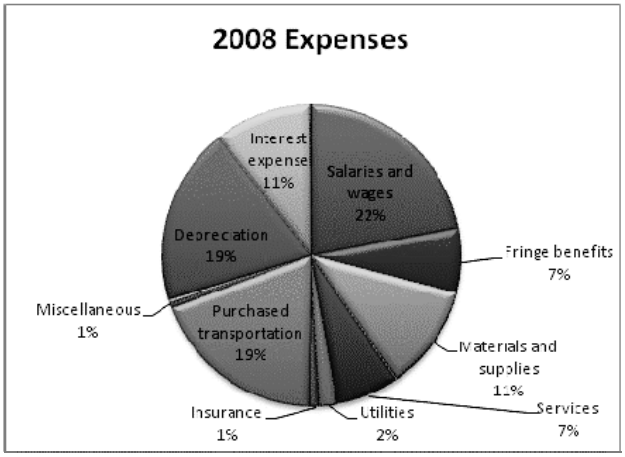
The following schedule and charts shows the major sources of operating expenses for the years ended December 31, 2009, 2008, and 2007.

Expense Analysis

	2009	2008	2007
Expenses			
Salaries and wages	$ 117,355	$ 118,417	$ 113,742
Fringe benefits	44,392	37,382	36,818
Materials and supplies	56,835	61,056	49,157
Services	42,783	36,835	30,654
Utilities	9,512	10,575	8,678
Insurance	3,767	5,333	5,090
Purchased transportation	103,975	102,743	97,818
Leases and rentals	2,680	2,464	2,195
Miscellaneous	6,866	2,619	2,390
Depreciation	106,025	102,252	103,302
Interest expense	34,179	56,273	52,272
Other expense / Unrealized loss on assets	23,037	977	861
Total Expenses	$ 551,406	$ 536,926	$ 502,977







Salaries and wage expense accounted for 21% and 22 % of the District's total expenses in 2009 and 2008 respectively and were the largest expense category in operating expenses. This is common in the public transportation industry as the provision of service is extremely labor intensive. Unlike many other transit districts, RTD has a substantial portion of its transit vehicle service contracted to private providers. In 2009, approximately 57.0% of the District's transit services, fixed route, and demand response ADA service were operated by private contractors and categorized as purchased transportation expenses. Due to the large investments the District has in capital assets, depreciation continues to be a large operating expense.

Salary and wages – Salary and wage expense is the largest expense category accounting for 21% and 22% of the total District expenses in 2009 and 2008 respectively. Salary and wage expenses decreased by $1,062 (.9%) in 2009 compared to an increase $4,675 (4.1%) in 2008. The decrease in salary and wages is due to reduced service in May of 2009 and a 4.5% merit and progression increases not offered in 2009, but was offered in 2008. Those savings were offset by an increase of 25 salaried headcount and 2 represented revenue technicians.

Benefits – Fringe benefits increased by $7,010 (18.8%) in 2009 compared to $564 (1.5%) in 2008. The increase in 2009 fringe benefit costs is related to an increase in Net Pension Obligation (NPO) and headcount as described above. The increase in 2008 fringe benefits is related to an increase in payroll taxes as a result of an increase in salary and wage cost offset by a favorable decrease in salaried employee insurance costs.

Materials and supplies – The materials and supplies expense category accounted for 10% and 11% of the total District expenses in 2009 and 2008 respectively. Materials and supplies expense decreased $4,221 (6.9%) in 2009 compared an increase to $11,899 (24.2%) in 2008. The decreases are due to the decrease in the price of diesel and gasoline fuel. The District locked in diesel fuel prices for the internal operations at $3.10 per gallon in 2009 compared to $3.20 per gallon in 2008. The price per gallon for diesel fuel in 2007 was $2.06. Also, the Mall Shuttle rehab project was completed in 2008, which lowered revenue vehicle parts by $1,300 in 2009.

Services – Service expense includes contracted services such as security services; vehicle, equipment and right of way maintenance services; advertising and marketing services, and legal services. Service expense increased $5,948 (16.1%) in 2009 compared to $6,181 (20.2%) in 2008. The increase in 2009 service expense was primarily due to increased services of FasTrack corridor activity, property management services, security services and LRT maintenance of way. The increase in 2008 service expense was primarily due to increased cost of data processing services, software maintenance agreements, and engineering, planning and financial consultants.

Utilities – Utility expense includes electric, telecommunications, water and sewer, and natural gas for facilities and rail service. Utility expense decreased $1,063 (10.1%) in 2009 compared to an increase of $1,897 (21.9%) in 2008. The decrease in 2009 was due to lower unit cost. The increase in 2008 was due to higher unit cost and increased rail usage with the southeast rail operations and additional third rail vehicle added to train consists to accommodate an increased number of riders.

Insurance – Insurance expense includes the District's self insured cost for general liability and workers' compensation claims. In addition, the District purchased insurance in its efforts to protect assets and control and prevent losses. Insurance expense decreased $1,566 (29.4%) in 2009 compared to an increase of $243 (4.8%) in 2008. The change in both years was primarily due to higher and lower claims loss history.

Purchased transportation – The purchased transportation expense category accounted for 18.9% and 19.1% of the total District expenses in 2009 and 2008. Purchased transportation represents the costs of contracted transportation services for bus, access-a-Ride, and call-n-Ride services. Purchased transportation costs increased $1,232 (1.2%) in 2009 compared to $4,925 (5.0%) in 2008. The increase in both years was primarily due to negotiated contract increases and an increase in the hours of service provided.

Leases and rentals – Leases and rentals includes lease expense for office space, office equipment, park-n-Ride facilities, and use of communication towers. The lease and rentals expense increased $216 (8.8%) in 2009 compared to $269 (12.3%) in 2008.

Miscellaneous – Miscellaneous expense includes other incidental operating expenses not included in other defined categories. Miscellaneous expenses increased $4,247 (162.2%) in 2009 compared to an increase of $229 (9.6%) in 2008.

Depreciation – The depreciation expense category accounted for 19.2% and 19.0% of the total District expenses in 2009 and 2008, respectively. Depreciation expense is a non-cash systematic allocation of the cost of capital assets over the estimated useful life of the assets. Depreciation expense increased $3,773 (3.7%) in 2009 compared to a decrease of $1,050 (1.0%) in 2008. The increase in 2009 was due to adding 12 light rail transit (LRT) cars in 2009 and full depreciation for the 28 LRT cars added in 2008. The decrease in 2008 was due to asset retirements and reduced allocation for assets that had reached the end of the life based on the accounting depreciation period.

Interest expense – The interest expense category accounted for 6% and 11% of the total District expenses in 2009 and 2008 respectively. Interest expense decreased $22,094 (39.3%) in 2009 compared an increase of $4,001 (7.7%) in 2008. The decrease in interest expense in 2009 was primarily due to increased amount of interest capitalized during construction and substantial lower principal balance on the Commercial Paper. The increase in interest expense in 2008 was primarily due to a lower amount of interest capitalized during construction resulting in higher interest expense offset by reduced principal balances and interest expense related to outstanding commercial paper obligations.

Other expense /Unrealized loss on assets – Other expense includes miscellaneous non-operating expenses not classified in other expense categories. Other expense increased $22,060 (2257.9%) in 2009 compared to $116 (13.5%) in 2008. The 2009 increase is due to an unrealized loss on asset accounting valuation which requires non operating assets to be valued at the current market value.

Capital Assets

Capital assets – Investments in capital assets include: land and rights-of-way; buildings and improvements; leasehold improvements; revenue and non-revenue vehicles; shop and service equipment; security and surveillance equipment; computer equipment; and furniture. The District's investment in capital assets, net of accumulated depreciation, in 2009 was $2,361,845 compared to $2,095,135 in 2008. The net increase in capital assets during the current year is $266,710 (12.7%) compared to an increase of $180,461 (9.4%) in 2008. The District acquires its assets with sales and use tax revenues, farebox revenue, federal capital grants, and proceeds from the sale of revenue bonds, certificates of participation and commercial paper.

The increases during 2009 and 2008 were primarily due to the cost of planning, design and construction of FasTracks rail corridors.

The following table summarizes capital assets, net of accumulated depreciation, as of December 31, 2009 and 2008 with comparative information for 2007.

December 31, 2009 and 2008 (Dollars in Thousands)

Capital Assets (Net of Depreciation)

	2009	2008	2007
Land	$ 172,537	$ 182,680	$ 182,517
Land improvements	939,202	973,710	1,003,026
Buildings	102,789	109,882	116,007
Revenue earning equipment	362,186	309,966	326,098
Shops, maintenance and other equipment	19,933	22,270	17,950
Construction in progress	765,198	496,627	269,076
Total	$ 2,361,845	$ 2,095,135	$ 1,914,674

Major capital asset events during the current 2009 fiscal year included the following:

Base System Southeast Corridor – The Southeast Corridor light rail project was substantially completed and put into service in November 2006, with final contract acceptances in 2007. In 2009, additional amenities such as traction power improvements, the completion of the Arapahoe Station Plaza were completed with the anticipation of completing the project in 2010. Expenditures in 2009 were approximately $5,615.

FasTracks Denver Union Station – The District, with assistance from the City and County of Denver (CCD), the Denver Regional Council of Governments (DRCOG), and the Colorado Department of Transportation (CDOT) acquired historic Denver Union Station (DUS) in August 2001. DUS and the surrounding property will be developed as a mixed-use, multi-modal transportation center located at and in the vicinity of the original Denver Union Station. The master plan was adopted by all the participating agencies in September and October 2004. In addition, RTD acquired approximately 2 acres of property to relocate light rail tracks adjacent to the Consolidated Mainline. In 2009, RTD provided a 40.0 million note to the Denver Union Station Project Authority (DUSPA) with approval to issue a limited notice to proceed with the contractor Kiewit Construction. Expenditures for 2009 were approximately $25 million for the advanced construction of assets which will be transferred to RTD in 2010.

FasTracks West Corridor - The West Corridor is a 12.1 mile light rail transit corridor between the Auraria Campus in downtown Denver and Jefferson County Government Center in Golden, serving Denver, Lakewood, the Denver Federal Center, Golden and Jefferson County. It will be the first corridor completed in the FasTracks program. In 2007, RTD submitted an initial Full Funding Grant Agreement (FFGA) application to FTA. In 2009, expenditures related to the West Corridor were approximately $87,175.

FasTracks East Corridor - The East Corridor is a 23.6-mile commuter rail transit corridor between Denver Union Station and Denver International Airport. The corridor was approved for inclusion in FTA Public-Private Partnership Pilot Program (Penta-P). In 2009, expenditures related to the East Corridor were $1,378.

FasTracks Gold Line Corridor - The Gold Line Corridor is an 11.2 mile rail transit corridor between Denver Union Station to the vicinity of Ward Road, passing through northwest Denver, unincorporated Adams County, Arvada, and Wheat Ridge. This corridor was also approved for inclusion in FTA Public-Private Partnership Pilot Program (Penta-P). In 2009, expenditures related to the Gold Line were $2,087.

FasTracks North Metro Corridor - The North Metro Corridor is an 18 mile rail transit corridor between Denver Union Station and 162nd Avenue, passing through Denver, Commerce City, Thornton, Northglenn and unincorporated Adams County. In 2009, expenditures related to the North Metro Corridor were $126,381.

FasTracks Northwest Rail Corridor - The Northwest Rail Corridor is a 41 mile rail transit corridor between Denver Union Station and Longmont, passing through Denver, Westminster, Broomfield, Louisville, Boulder, Longmont, unincorporated Adams County, and unincorporated Boulder County, was constituted as a project separate from the ongoing environmental work in the US 36 BRT corridor. In 2009, expenditures related to the Northwest Rail Corridor were $3,769.

FasTracks Commuter Rail Maintenance Facility – The commuter rail maintenance facility is being designed to service the four planned commuter rail corridors (East Corridor, Gold Line, North Metro, and Northwest Rail) included in the FasTracks plan. The facility was approved for inclusion in FTA Public-Private Partnership Pilot Program (Penta-P). In 2009, expenditures related to the Commuter Rail Maintenance Facility were $326.

In addition, the District has made progress payments of $15,970 on twenty-nine light rail vehicles for the FasTracks program.

Additional information on the RTD's capital assets can be found in footnote C of this report.

Debt Administration

Outstanding debt – Outstanding debt includes sales tax revenue bonds, certificates of participation, and commercial paper. The 2009 outstanding principal was $1,194,980 compared to $1,257,750 in 2008. Outstanding debt decreased by $62,770 (5.0%) in 2009 and $63,640 (4.8%) in 2008. The decrease in both years is due to scheduled principal payments.

Sales tax revenue bonds – The District issues sales tax revenue bonds to fund the acquisition and construction of assets. The sales tax revenue bonds were $881,845 and $902,275 as of December 31, 2009 and 2008, respectively. The sales tax revenue bonds decreased $20,430 (2.3%) in 2009 compared to a decrease of $22,125 (2.4%) in 2008. The decrease in both years was due to scheduled principal payments. The sales tax revenue bonds are payable from the District's sales and use tax revenue. The District is required to maintain certain minimum deposits, as defined in bond resolutions, to meet debt service requirements. The bonds may be redeemed prior to maturity, at a price equal to the principal amount plus accrued interest thereon to the date of redemption and a premium.

Certifications of participation - Certifications of participation relate to financial obligations issued by Regional Transportation District Asset Acquisition Authority, Inc. (Authority), a nonprofit corporation. The Authority issued Certificates of Participation (Certificates) with the proceeds being used to acquire certain equipment and facilities to be used by the District. The District leases the equipment acquired with the proceeds from the Certificates under two separate Master Lease Purchase Agreements. For financial reporting purposes, the District accounts for the Certificates as its own debt. Certificates outstanding were $291,135 and $309,475 as of December 31, 2009 and 2008, respectively. The certificates outstanding decreased $18,340 (5.9%) in 2009 compared to a decrease of $17,515 (5.4%) in 2008. The decrease in both years was due to scheduled debt payments.

December 31, 2009 and 2008 (Dollars in Thousands)

Commercial Paper - The District has issued commercial paper (CP) in order to provide bridge financing for the federal share of the Southeast Corridor light rail project. In August 2001, the District was authorized to issue up to $118.5 million of commercial paper for this purpose. The final principal reduction is planned to take place in 2010. CP outstanding was $22,000 and $46,000 as of December 31, 2009 and 2008, respectively. The CP decreased $24,000 (52.2%) in 2009 compared to a decrease of $24,000 (34.3%) in 2008. The decrease in both years was due to planned payments per the amortization schedule.

In 2010, the District expects to retire $22,000 of the current outstanding balance of $22,000 and does not anticipate any additional issuances of outstanding principal under this program.

The following table summarizes outstanding debt obligations as of December 31, 2009 and 2008 with comparative information for 2007.

Outstanding Debt

	2009	2008	2007
Bonds payable:			
Sales Tax Revenue Bonds	$ 881,845	$ 902,275	$ 924,400
Certificates of Participation	291,135	309,475	326,990
Commercial Paper	22,000	46,000	70,000
Total Principal	1,194,980	1,257,750	1,321,390
Less unearned amounts:			
Issuance premiums and discounts	40,357	43,941	46,416
Unearned loss on refunding	(9,645)	(10,890)	(11,605)
Debt net of issuance and refunding	$ 1,225,692	$ 1,290,801	$ 1,356,201

The District maintains credit ratings from Standard & Poor Corporation, Moody's Investor Services, and Fitch Ratings. Credit ratings vary based on the type of debt and the source of funds used for repayment. The District's ratings are presented in the following table:

Rating Agency	Senior Bonds Base System .6% Sales Tax	FasTracks Bonds .4% Sales Tax	Certificates of Participation
Standard & Poor's	AAA	AA+	A
Moody's	Aa3	Aa3	A1
Fitch	AA	AA-	A+

Additional information on the District's debt can be found in footnote D of this report.

Economic Factors and Subsequent Events after the adoption of the 2009 Budget

Sales and use tax is the largest source of revenue for the District, representing 53% and 63% of the total revenues in 2009 and 2008 respectively. Sales and use tax revenues are affected by the changes in the local economy. The Districts sales and use tax revenue have grown an average of 4.3% each year from 2004 through 2007 as the Colorado economy expanded. However in the fourth quarter of 2008 sales and use tax revenues fell below 2007, resulting in an annual decrease $5,583 (1.3%) in 2008. The District continues to experience an economic downturn in 2009 as consumer and business optimism has reached record low levels and unemployment continues to move upward further depressing consumer spending. Actual sales and use tax revenue for 2009 was $371,405 a decrease of $41,419 (10.0%) from 2008. Based on current projections from the Colorado Legislative Council, the District is estimating that 2010 revenues will be equal to 2009.

Increases in expenditures are expected in future years due to expansion of the District's FasTracks program. The FasTracks program is a 12-year plan to build a comprehensive, integrated region-wide transit network that will provide a reliable and safe system, enhance mobility and respond to the growing transportation needs within the eight-county Regional Transportation District. The FasTracks program includes 122 miles of new light rail and commuter rail, 18 miles of bus rapid transit infrastructure, 57 new stations, 31 new park-n-Rides, and redevelopment of Denver Union Station. Funding for the FasTracks program will be secured through Federal Transit Administration (FTA) grants, sales tax and other revenues, issuance of long term debt, and public-private partnerships. The 2009 FasTracks Annual Program Evaluation estimates that the cost to implement FasTracks will be $6.5 billion. However, due to the continuing recession, sales tax revenues have also declined significantly and are projected over the long-term to leave a $2.4 billion gap in funding necessary to complete the program. RTD will continue to evaluate any possible new revenue sources to help close the budget gap.

A Portion of the RTD Sales Tax Bonds, Series 2000A, Series 2002A and Series 2004A (the "Refunded Bonds") in a total principal amount of $49,005 were refunded with the 2010 Refunding Bonds. The 2010 Refunding Bonds were offered and sold to investors on December 14, 2009 and produced savings of $1,831 million on a present value basis (3.737% percentage savings of the Refunded Bonds). Refunding Bonds closing occurred on January 5, 2010.

Requests for Information

This financial report is intended to provide an overview of the District's finances for those with an interest in this organization. Questions concerning any information contained in this report may be directed to the Chief Financial Officer.

BASIC FINANCIAL STATEMENTS

REGIONAL TRANSPORTATION DISTRICT
STATEMENTS OF NET ASSETS
Year Ended December 31,
(In Thousands)

	2009	2008
ASSETS		
Current Assets:		
Cash and cash equivalents(note B)	$ 19,219	$ 41,560
Marketable interest bearing investments (note B)	200,105	175,122
Receivables:		
Sales tax	70,263	68,066
Other, less allowance for doubtful accounts of $488 and $148 in 2009 and 2008, respectively	41,146	14,744
Grants	68,483	5,171
Inventories	18,647	15,604
Other current assets	39,539	5,831
Cash and cash equivalents - restricted (note B)	337,788	57,046
Marketable interest bearing investments - restricted (note B)	55,551	539,150
Total current assets	850,741	922,294
Noncurrent Assets:		
Capital Assets (note C):		
Land	172,537	182,680
Land improvements	1,281,751	1,270,650
Buildings	257,817	256,967
Revenue earning equipment	634,665	553,337
Shop, maintenance and other equipment	89,387	85,261
Construction in progress	765,198	496,627
Total Capital Assets	3,201,355	2,845,522
Less accumulated depreciation	(839,510)	(750,387)
Net capital assets	2,361,845	2,095,135
Other Noncurrent Assets:		
Long-term marketable interest bearing investments (note B)	203,530	284,458
Long-term receivable	212	306
Other	10,131	11,027
Total other noncurrent assets	213,873	295,791
Total noncurrent assets	2,575,718	2,390,926
Total assets	$ 3,426,459	$ 3,313,220

The accompanying notes are an integral part of these statements.

REGIONAL TRANSPORTATION DISTRICT
STATEMENTS OF NET ASSETS (CONTINUED)
Year Ended December 31,
(In Thousands)

	2009	2008
LIABILITIES		
Current Liabilities		
Accounts and contracts payable	$ 81,147	$ 56,545
Commercial paper (note D)	22,000	46,000
Current portion of long-term debt payable from restricted assets (note D)	48,145	38,770
Accrued compensation (note E)	16,073	15,931
Accrued interest payable from restricted assets	8,185	8,495
Other accrued expenses	23,463	22,856
Unearned revenue (note G)	94	86
Total current liabilities	199,107	188,683
Noncurrent Liabilities (note D)		
Long-term debt, net	1,155,547	1,206,031
Arbitrage liability	-	9,478
Other liabilities (note E)	25,418	16,312
Unearned revenue (note G)	212	306
Total noncurrent liabilities	1,181,177	1,232,127
Total liabilities	1,380,284	1,420,810
NET ASSETS		
Invested in capital assets, net of related debt (note I)	1,456,493	1,338,453
Resticted tabor reserve (note I)	15,158	16,821
Restricted (note I)	442,489	393,223
Unrestricted (note I)	132,035	143,913
Total net assets	$ 2,046,175	$ 1,892,410

The accompanying notes are an integral part of these statements.

REGIONAL TRANSPORTATION DISTRICT
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS
Year ended December 31,
(In Thousands)

	2009	2008
OPERATING REVENUE		
Passenger fares	$ 96,890	$ 88,205
Advertising, rent, and other	4,357	4,124
Total operating revenue	101,247	92,329
OPERATING EXPENSES		
Salaries and wages	117,355	118,417
Fringe benefits	44,392	37,382
Materials and supplies	56,835	61,056
Services	42,783	36,835
Utilities	9,512	10,575
Insurance	3,767	5,333
Purchased transportation	103,975	102,743
Leases and rentals	2,680	2,464
Miscellaneous	6,866	2,619
Depreciation	106,025	102,252
Total operating expenses	494,190	479,676
OPERATING LOSS	(392,943)	(387,347)
NONOPERATING REVENUE (EXPENSES)		
Sales and use tax	371,405	412,824
Federal operating assistance	68,146	50,814
Investment income	29,379	52,456
Other income	3,243	3,106
Gain/(Loss) Capital Assets	40	1
Unrealized Loss Capital Assets	(22,040)	-
Interest expense	(34,179)	(56,273)
Other expense	(997)	(977)
Net nonoperating revenue (expenses)	414,997	461,951
INCOME BEFORE CAPITAL GRANTS AND LOCAL CONTRIBUTIONS	22,054	74,604
Federal capital grants and local contributions (note A)	131,711	39,389
INCREASE IN NET ASSETS	153,765	113,993
NET ASSETS, beginning of year	1,892,410	1,778,417
NET ASSETS, end of year	$ 2,046,175	$ 1,892,410

The accompanying notes are an integral part of these statements.

REGIONAL TRANSPORTATION DISTRICT
STATEMENTS OF CASH FLOW
Year ended December 31,
(In Thousands)

	2009	2008
Cash flows from operating activities		
Receipts from customers	$ 75,271	$ 94,278
Payments to suppliers	(229,467)	(219,841)
Payments to employees	(161,605)	(152,972)
Other receipts	3,243	3,106
Net cash used in operating activities	(312,558)	(275,429)
Cash provided from noncapital financing activities		
Federal operating assistance	68,146	50,814
Sales and use tax collections	369,208	420,097
Net cash provided by noncapital financing activities	437,354	470,911
Cash flows from capital and related financing activities		
Principal paid on long-term debt	(65,109)	(63,020)
Proceeds from issuance of debt	(9,478)	17,695
Capital grant funds and other contributions received	68,493	48,523
Proceeds from sale of assets	15,619	47
Acquisition and construction of capital assets	(388,747)	(280,771)
Payment to defease debt	-	(16,421)
Interest paid on long-term debt	(56,096)	(58,814)
Net cash used in capital and related financing activities	(435,318)	(352,761)
Cash flows from investing activities		
Purchases of investments	(1,477,272)	(291,041)
Proceeds from sales and maturities of investments	2,012,775	483,056
Interest and dividends on investments	33,420	48,239
Net cash provided by investing activities	568,923	240,254
INCREASE IN CASH AND CASH EQUIVALENTS	258,401	82,975
Cash and cash equivalents - January 1	98,606	15,631
Cash and cash equivalents - December 31	$ 357,007	$ 98,606

The accompanying notes are an integral part of these statements.

REGIONAL TRANSPORTATION DISTRICT
STATEMENTS OF CASH FLOWS (CONTINUED)
Year ended December 31,

RECONCILIATION OF OPERATING LOSS TO NET CASH USED IN OPERATING ACTIVITIES:	2009	2008
Operating loss	$ (392,943)	$ (387,347)
Adjustment to reconcile operating loss to net cash used in operating activities		
Depreciation expense	106,025	102,252
Amortization expense	(902)	(897)
Other revenue	3,243	3,106
Bad debt expense	(95)	(80)
Changes in operating assets and liabilities:		
Increase in other accounts receivable	(26,402)	(2,041)
Increase in inventories	(3,043)	(3,877)
Increase in other current assets	(33,708)	(4,551)
Increase in accounts payable	33,708	10,406
Increase in accrued compensation and expenses	142	2,827
Decrease in long-term other assets	896	703
Decrease in deferred revenue	(86)	(79)
Increase in other accrued expenses	607	4,149
Net cash used in operating activities	$ (312,558)	$ (275,429)
RECONCILIATION OF CASH and CASH EQUIVALENTS		
Cash and Cash Equivalents	$ 19,219	$ 41,560
Cash and Cash Equivalents - Restricted	337,788	57,046
Total Cash and Cash Equivalents	$ 357,007	$ 98,606

Noncash investing activities

The District had unrealized gains (losses) on investments of $292 and ($62) for 2009 and 2008, respectively.

The accompanying notes are an integral part of these statements.

NOTES TO FINANCIAL STATEMENTS

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1. *Organization*

The Regional Transportation District (the District) was created as a transportation planning agency, a political subdivision of the State of Colorado, by an Act of the Colorado General Assembly (the Act), effective July 1969 (Title 32, Article 9, C.R.S., 1973, as amended). In 1974, the Act was amended and the District became an operating entity charged with the responsibility for development, operation and maintenance of a public mass transportation system for the benefit of the citizens of the District. The District is comprised of 15 separate districts located in Denver, Boulder, Broomfield and Jefferson counties, and certain portions of Adams, Arapahoe, Douglas, and Weld counties.

The District is governed by a publicly elected board of directors consisting of 15 members. Each board member is elected to serve a term of four years by the constituents of the district in which the board member resides. As required by generally accepted accounting principles, these financial statements present the District and its component unit. The component unit discussed in note A.2 is included in the District's reporting entity because of the significance of its operational or financial relationship with the District.

In 1988, a Senate Bill was enacted (privatization legislation) requiring the District to implement by March 31, 1989, a plan to competitively bid contracts for the provision of at least 20% of the District's bus service by private contractors. In 1999, the Bill was amended requiring RTD to increase this provision to 35% of fixed route bus service. In 2003, the Bill was amended to require that 50% of the District's vehicular service be operated by private transit companies.

2. *Financial Reporting Entity – Blended Component Unit*

The Regional Transportation District Asset Acquisition Authority, Inc. (the Authority) was formed in 1987 as a nonprofit corporation on behalf of the District for the purpose of issuing certificates of participation in a public offering collateralized by an installment purchase agreement with the District. The District's General Manager appoints the Board of Directors of the Authority. The Authority serves as a financing mechanism for various financing arrangements for the District. The activity related to the underlying financial obligations has been included in the District's financial statements for the years ended December 31, 2009 and 2008. No separately audited financial statements are prepared for the Authority.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

3. *Basis of Accounting*

The accounts of the District are reported as a Proprietary Fund. Proprietary funds are accounted for on the flow of economic resources measurement focus and use the accrual basis of accounting. Revenue is recognized when earned and expenses are recorded at the time liabilities are incurred. Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the District are charges to customers for services. Operating expenses include the cost of services, administrative expenses and depreciation on capital assets. All revenues and expenses not meeting the definition are reported as nonoperating revenues and expenses. It is the District's policy to apply all applicable GASB pronouncements and Financial Accounting Standard Board (FASB), Accounting Standards Codification (ASC) issued on or before, but not after November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements. When both restricted and unrestricted resources are available for use, it is the District's policy to use restricted resources first, then unrestricted resources as they are needed.

4. *Cash Equivalents*

The District considers all highly liquid investments, both restricted and unrestricted, with an original maturity of three months or less when purchased to be cash equivalents.

5. *Interest Bearing Investments*

Investments with a maturity date, when purchased, of less than one year are recorded at cost or amortized cost. Investments with a maturity date of more than one year from the date of purchase are recorded at fair value.

6. *Inventories*

Inventories consist primarily of materials and supplies used in the ordinary course of operations. Materials and supplies are stated at cost using the FIFO (first-in, first-out) method.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

7. *Restricted Assets*

Restricted assets are assets restricted by the covenants of long-term financial arrangements.

8. *Capital Assets*

Property and equipment are stated at historical cost. Capital assets are defined by the District as assets with an initial, individual cost of more than $5,000 and an estimated useful life in excess of one year. Maintenance and repairs are charged to current period operating expenses and improvements are capitalized. Upon retirement or other disposition of property and equipment, the cost and related accumulated depreciation are removed from the respective accounts and any gains or losses are included in nonoperating revenue and expenses. A pro rata share of the proceeds from the sale of property and equipment, which were acquired with federal funds, is required to be invested in a similar asset.

Interest is capitalized on assets financed with tax-exempt debt. The amount of interest to be capitalized is calculated by offsetting interest expense incurred from the date of the borrowing until completion of the project with interest earned on investment proceeds over the same period.

Total interest cost of the District consisted of the following as of December 31:

	2009	2008
Interest Expense	$ 34,179	$ 56,273
Capitalized Interest	21,607	1,987
Total Interest Cost	$ 55,786	$ 58,260

9. *Depreciation*

Depreciation of property and equipment is computed using the straight-line method over the estimated useful lives of the assets, which are as follows:

Land improvements	5–30 years
Buildings	30 years
Revenue earning equipment	8–25 years
Shop, maintenance and other equipment	3–10 years

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Fully depreciated assets, which are still in use, are included in the asset balances in the accompanying financial statements. The cost of fully depreciated assets was approximately $188,353 and $140,335 at December 31, 2009 and 2008, respectively.

10. *Compensated Absences*

Substantially all employees receive compensation for vacations, holidays, illness, and certain other qualifying absences. The number of days compensated in the various categories of absence is based generally on length of service. Compensated absences, which have been earned but not paid, have been accrued in the accompanying financial statements.

11. *Self-Insurance*

Liabilities for property damage and personal injury are recognized as incurred on the basis of the estimated cost to the District.

12. *Revenue Recognition*

Passenger Fares

Passenger fares are recorded as revenue at the time services are performed and revenue passes through the farebox. Sale of tokens are recorded initially as unearned revenue and recognized as income upon passage through the farebox. Sales of monthly passes are recorded initially as unredeemed fares (unearned revenue) and recognized as income at the end of the month for which the pass is used. Sale of ten ride tickets, five day supply, is recorded as income at the time of sale.

Sales of University based passes, which are valid for a specific academic semester, are recorded initially as unearned revenue. Sales are recognized as income at the end of each month, with the amount recognized in each month determined by prorating the total contract amount over the number of academic calendar days in each month of the contract. Sales of Eco Pass and Neighborhood Pass, which are valid through December 31 of a given year, are recorded initially as unredeemed fares (unearned revenue). Sales are recognized as income at the end of each month, with the total contract amount prorated evenly over the number of months of the contract.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Sales and Use Taxes

Under the provisions of the Act, as amended, the District levies a sales tax of 1% on net taxable sales made within the District and a use tax of 1% on items purchased for use inside the District. As described in Note D, under the terms of the Sales Tax Revenue Bonds, Series 1997, Series 2000A, Series 2002A, Series 2002B, Series 2003A, Series 2004A, Series 2005A, and Series 2007A bond resolutions, and the commercial paper resolution, sales tax revenue is pledged for payment of debt service. Sales taxes are collected by the State of Colorado, Department of Revenue and are remitted to a trustee who satisfies debt service from the collections, as required under the District's bond and commercial paper resolutions, and remits the balance to the District. Sales and use taxes are recorded as revenue by the District in the month collected by the merchant.

Grants and Assistance

The federal government, through the Federal Transit Administration (the FTA), provides financial assistance and makes grants directly to the District for operations and acquisition of property and equipment. The amount recorded as federal capital grant and local contribution revenues was $131,711 and $39,389 in 2009 and 2008, respectively.

13. *Use of Estimates*

The preparation of financial statements in accordance with US GAAP involves the use of management's estimates. These estimates are based upon management's best judgments, after considering past and current events and assumptions about future events. Actual results may differ from estimates.

14. *Reclassification of Prior Year Amounts*

Net Pension Obligation Liability has been regrouped and prior year financial statements have been reclassified to conform to current year presentation. Cash and cash equivalents category has been added to current assets and prior year financial statements have been reclassified to conform to current year presentation.

NOTE B – DEPOSITS AND INVESTMENTS

Deposits

The District's deposits are subject to the State of Colorado's Public Deposit Protection Act (PDPA). Under this act, all uninsured public deposits at qualified institutions are fully collateralized with pledged collateral which is held in custody by any Federal Reserve Bank or branch thereof, or held in escrow by some other bank in a manner as the banking

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE B – DEPOSITS AND INVESTMENTS (CONTINUED)

Commissioner shall prescribe by rule and regulation, or may be segregated from the other assets of the eligible public depository and held in its own trust department. Colorado's PDPA Act requires that pledged collateral so held is clearly identified as being security maintained or pledged for the aggregate amount of public deposits accepted and held on deposit by the eligible public depository. The depository has the right at any time to make substitutions of eligible collateral maintained or pledged and is at all times entitled to collect and retain all income derived from those investments without restrictions.

On October 3, 2008, as part of the Economic Stabilization Act, Congress temporarily increased FDIC insurance from $100 to $250 per depositor. At December 31, 2009 the bank balance was $337,788. Of the total bank balance, $750 was covered by federal depository insurance and $337,277 was covered by PDPA.

At December 31, 2008, the bank was $57,725. Of the total bank balance, $750 was covered by federal depository insurance and $56,975 was covered by PDPA.

Investments

At December 31, 2009, the Regional Transportation District's investments consisted of the following:

Investment Type	Fair Value	Less Than 6 Months	6-12 Months	1-5 Years
U.S. Agency Securities	$366,558	$ 95,407	$ 93,306	$ 177,845
U.S Treasury Securities	27,041	27,041		
Corporate bonds	33,848	-	8,163	25,685
Repurchase agreements	31,739	31,739		
Total	459,186	154,187	101,469	203,530
Money market funds-(not categorized)	19,219	19,219		
Total:	$478,405	$ 173,406	$ 101,469	$ 203,530

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE B – DEPOSITS AND INVESTMENTS (CONTINUED)

At December 31, 2008, the Regional Transportation District's investments consisted of the following:

Investment Type	Fair Value	Less Than 6 Months	6-12 Months	1-5 Years
U.S. Agency Securities	$ 348,793	$ 98,955	$ 57,817	$ 192,021
U.S Treasury Securities	27,618			27,618
Corporate bonds	94,096	6,990	22,287	64,819
Repurchase agreements	528,223	528,223		
Total	998,730	634,168	80,104	284,458
Money market funds-(not categorized)	41,560	41,560		
Total:	$ 1,040,290	$ 675,728	$ 80,104	$ 284,458

Investments (Continued)

Interest Rate Risk. As a means of limiting its exposure to fair value losses arising from rising interest rates, the District's investment policy limits maturities of individual investment securities to 5 years, unless otherwise authorized by the District's board of directors. Restricted accounts, consisting mainly of proceeds from issuance of District securities, are invested as permitted by the documents governing those securities transactions and are not considered in the duration-managed portion of the overall portfolio.

Credit Risk. Investment transactions are made in accordance with the Colorado Revised Status (CRS) 24-75-601, 32-9-119 and 32-9-163.

The types of investments, which are authorized by the District's internal investment policy, include the following:

1. Obligations of the United States government.
2. Obligations of the United States government agencies and United States government sponsored corporations.
3. Municipal notes or bonds that are an obligation of any state of the United States.
4. Prime commercial paper.
5. Prime banker's acceptances.
6. Repurchase agreements.
7. Reverse repurchase agreements.
8. Money market funds.
9. Securities of the District.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE B – DEPOSITS AND INVESTMENTS (CONTINUED)

Credit ratings of the District's portfolio, as of December 31, 2009 and 2008, are exhibited in the table below. While all portfolio holdings adhere to the District's investment policy and applicable statute, not all investment holdings are rated by the nationally recognized statistical rating organizations. Investments rated AAA, AA and A are from the Fitch rating service. Investments rated A-1+/P-1 are from the Standard & Poor's and Moody's rating services, respectively. The securities falling within the non-rated categories below are either: Money market funds which seek their returns through investments in high-quality short-term debt obligations, securities issued by U.S. government agencies, or repurchase agreements collateralized with securities issued by the U.S. government and government sponsored enterprises (U.S. Agencies).

At December 31, 2009, the Regional Transportation District's credit ratings consisted of the following:

Investment Ratings	Market Value	Summary
AAA (Fitch Ratings)	$368,531	
AA (Fitch Ratings)	14,227	
A (Fitch Ratings)	6,270	
Non-rated Money Market Funds	19,219	Money market funds investing in high-quality short-term debt obligations.
Non-rated Agency Securities: Although these securities are Non-rated, they are obligations issued by federal agencies and/or the US government sponsored enterprises.	38,419	Securities issued by FHLB (rated Aaa Moody's), FMLMC (rated Aaa Moody's and AAA Fitch) and FNMA (rated Aaa Moody's and AAA Fitch).
Non-rated Repurchase Agreements	31,739	Repurchase agreement collateralized with securities issued by U.S. government agencies.
Total:	$478,405	

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE B – DEPOSITS AND INVESTMENTS (CONTINUED)

At December 31, 2008, the Regional Transportation District's credit ratings consisted of the following:

Investment Ratings	Market Value	Summary
AAA (Fitch Ratings)	$ 340,935	
AA (Fitch Ratings)	22,000	
A-1+/P-1 (S&P, Moody's)	20,999	
Non-rated Money Market Funds	41,560	Money market funds investing in high-quality short-term debt obligations.
Non-rated Agency Securities: Although these securities are Non-rated, they are obligations issued by federal agencies and/or the US government sponsored enterprises.	86,573	Securities issued by FHLB (rated Aaa Moody's), FMLMC (rated Aaa Moody's and AAA Fitch) and FNMA (rated Aaa Moody's and AAA Fitch).
Non-rated Repurchase Agreements	528,223	Repurchase agreement collateralized with securities issued by U.S. government agencies.
Total:	$ 1,040,290	

Concentration of Credit Risk. It is the policy of the District to diversify its investment portfolio. Assets held in the investment funds shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issue or a specific class of securities. The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy and the securities markets.

The District's investment policy outlines the following maximum exposure limits for unrestricted investments. As of December 31, 2009 and 2008, the District was in compliance with these limits.

	Maximum limits RTD investments
U.S. Treasury Securities	100%
Federal Agencies and instrumentalities	100%
Certificates of Deposits	20%
U.S. Corporate/Bank Debt	30%
Municipal Notes	30%
Commercial Paper	30%
Bankers Acceptance	40%
Repurchase Agreements	100%
Reverse Repurchase Agreements	20%
Money Market Funds	20%
Local Government Investment Pools	20%
District Securities	100%

NOTE B – DEPOSITS AND INVESTMENTS (CONTINUED)

Proceeds from the issuance of District securities do not fall under the maximum limits listed above. Rather, the investment securities related to restricted accounts are invested in accordance with the related operative legal documents.

At December 31, 2009 and 2008, the District had $393,339 and $596,196 of cash and investments were restricted under the provisions of bond agreements.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE C – CAPITAL ASSETS

Capital asset activity as of December 31, 2009 was as follows:

	Balances 1/1/2009	2009 Additions	2009 Deletions	Balances 12/31/2009
Capital Assets not being depreciated:				
Land	$ 182,680	$ 27,031	$ 37,174	$ 172,537
Construction in progress	496,627	410,354	141,783	765,198
Total Capital Assets not being depreciated	679,307	437,385	178,957	937,735
Capital Assets being depreciated:				
Land improvements	1,270,650	11,101	-	1,281,751
Buildings	256,967	850	-	257,817
Revenue earning equipment	553,337	97,227	15,899	634,665
Shop,maintenance and other equipment	85,261	5,574	1,448	89,387
Total capital assets being depreciated	2,166,215	114,752	17,347	2,263,620
Less accumulated depreciation:				
Land improvements	296,940	45,609	-	342,549
Buildings	147,085	7,943	-	155,028
Revenue earning equipment	243,371	44,586	15,478	272,479
Shop,maintenance and other equipment	62,991	7,887	1,424	69,454
Total accumulated depreciation	750,387	106,025	16,902	839,510
Total capital assets being depreciated, net	1,415,828	8,727	445	1,424,110
Capital assets, net	$ 2,095,135	$ 446,112	$ 179,402	$ 2,361,845

The depreciaiton expense was 106,025 and 102,252 for year 2009 and 2008, respectively.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE C – CAPITAL ASSETS (CONTINUED)

Capital asset activity for the year ended December 31, 2008 was as follows:

	Balances 1/1/2008	2008 Additions	2008 Deletions	Balances 12/31/2008
Capital Assets not being depreciated:				
Land	$ 182,517	$ 163	$ -	$ 182,680
Construction in progress	269,076	282,758	55,207	496,627
Total Capital Assets not being depreciated	451,593	282,921	55,207	679,307
Capital Assets being depreciated:				
Land improvements	1,254,283	16,367	-	1,270,650
Buildings	254,901	2,066	-	256,967
Revenue earning equipment	531,674	21,717	54	553,337
Shop,maintenance and other equipment	70,534	14,896	169	85,261
Total capital assets being depreciated	2,111,392	55,046	223	2,166,215
Less accumulated depreciation:				
Land improvements	251,257	45,683	-	296,940
Buildings	138,894	8,191	-	147,085
Revenue earning equipment	205,576	37,804	9	243,371
Shop,maintenance and other equipment	52,584	10,574	167	62,991
Total accumulated depreciation	648,311	102,252	176	750,387
Total capital assets being depreciated, net	1,463,081	(47,206)	47	1,415,828
Capital assets, net	$ 1,914,674	$ 235,715	$ 55,254	$ 2,095,135

The depreciaiton expense was 102,252 and 103,302 for year 2008 and 2007, respectively.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG-TERM DEBT

Long-term debt is comprised of the following as of December 31:

	2009	2008
Sales Tax Revenue Bonds, Series 2000A, due serially on November 1 of each year to 2014, issued with coupons 4.5% and 5.0%, payable semiannually on May 1 and November 1 each year.	$ 17,695	$ 20,770
Sales Tax Revenue Bonds, Series 2002B, due serially on November 1 of each year from 2004 to 2016, issued with coupons between 3.80% and 5.50%, payable semiannually on May 1 and November 1 of each year; including premium of $1,658 and $1,900 for 2009 and 2008, respectively.	32,808	39,905
Sales Tax Revenue Refunding Bonds, Series 2003A, due serially on November 1 of each year through 2010, issued with a interest of 5.00% coupons payable semiannually on May 1 and November 1 of each year; including net unearned loss from refunding of ($85) and ($187) for 2009 and 2008 and premium of $224 and $494 for 2009 and 2008, respectively.	3,754	7,357
Sales Tax Revenue Bonds, Series 2004A, due serially on November 1 of each year through 2017, issued with a 5.00% coupon, payable semiannually on May 1 and November 1 of each year; including premium of $2,138 and $2,411 for 2009 and 2008, respectively.	49,583	54,586
Sales Tax Revenue Bonds, Series 2005A, due serially on November 1 of each year through 2021, issued with 3.50% and 5.00% coupons, payable semiannually on May 1 and November 1 of each year; including net unearned loss from refunding of ($5,515) and ($5,981) for 2009 and 2008, and premium of $6,787 and $7,361 for 2009 and 2008 respectively.	100,747	101,045
Sales Taxes FasTracks Revenue Bonds, Series 2006A, due serially on November 1 of each year through 2036, issued with coupons between 4.375% to 5.0%, payable semiannually on May 1 and November 1 of each year; including premium of $9,923 and $10,293 for 2009 and 2008, respectively.	$ 245,658	$ 246,028

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

	2009	2008
Sales Taxes FasTracks Revenue Refunding Bonds, Series 2007A, due serially on November 1 of each year through 2036, issued with coupons between from 4.00% to 4.50% payable semiannually on May 1 and November 1 of each year; including net unearned gain from refunding of $771 and $800 for 2009 and 2008, and discount of ($1,377) and ($1,428) for 2009 and 2008, respectively.	$ 362,089	$ 362,491
Sales Taxes Revenue Refunding Bonds, Series 2007A, due serially on November 1 of each year through 2024, issued with a of 5.25% coupon, payable semiannually on May 1 and November 1 of each year; including net unearned loss of ($1,994) and ($2,128) for 2009 and 2008, and premium of $8,290 and $8,849 for 2009 and 2008, respectively.	76,121	76,546
Sales Taxes Revenue Refunding Bonds, Series 2008A, due serially on November 1 of each year through 2012, issued with coupons between 4.50% and 5.00%, payable semiannually on May 1 and November 1 of each year, including net unearned loss of($460) and ($622) for 2009 and 2008, and premium of $688 and $931 for 2009 and 2008, respectively.	14,438	16,239
Certificates of Participation Obligations, Series 1998A, under a lease agreement for acquisition of transit buses, payments are due semiannually on June 1 and December 1 to 2012, issued with coupons between 4.10% to 4.50%; including premium of $48 and $68 for 2009 and 2008, respectively.	12,463	16,998
Certificates of Participation Obligations, Series 2000A, under a lease agreement for acquisition of transit buses and vehicles, payments are due semiannually on June 1 and December 1 to 2009, issued with a 5.00% coupon.	-	7,480
Certificates of Participation Obligations, Series 2001A, under a lease agreement for acquisition of transit buses and vehicles, payments are due semiannually on June 1 and December 1 to 2021, issued with coupons between 4.00% and 5.00%; including premium of $97 and $105 for 2009 and 2008, respectively.	$ 19,137	$ 20,390

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

Certificates of Participation Refunding Obligations, Series 2004A, under a lease agreement for acquisition of transit buses and vehicles, payments are due semiannually on June 1 and December 1 to 2014, issued with coupons between 4.00% and 5.00%, including net unearned loss from refunding of ($1,767) and ($2,127) for 2009 and 2008 and premium of $1,595 and $1,919 for 2009 and 2008, respectively.	$ 45,763	$ 45,957
Certificates of Participation Obligations, Series 2005A, under a lease agreement for acquisition of light rail vehicles, payments are due semiannually on June 1 and December 1 to 2025, issued with coupons between 4.50% and 5.00%, including premium of $3,423 and $3,645 for 2009 and 2008, respectively.	69,393	73,595
Certificates of Participation Taxable Refunding Obligations, Series 2007A, under a lease agreement for acquisition of transit buses and vehicles, payments are due semiannually on June 1 and December 1 to 2021, issued with a 5.535% coupon, including net unearned loss from refunding of ($595) and ($645) for 2009 and 2008, respectively.	14,780	15,620
Certificates of Participation Obligations, Amended and Restated Series 2002A, under a lease agreement for acquisition of transit vehicles and facilities, payments are due semiannually on June 1 & December 1 to 2022, issued with coupons between 4.00% and 5.00%, including premium of $6,863 and $7,394 for 2009 and 2008, respectively.	139,263	139,794
	1,203,692	1,244,801
Less current portion	(48,145)	(38,770)
	$ 1,155,547	$ 1,206,031

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

The Sales Tax Revenue Bonds are payable from and collateralized by the District's sales tax revenue. The District is required to maintain certain minimum deposits, as defined in the bond resolution, to meet debt service requirements. The bonds may be redeemed in inverse order of maturity, at a price equal to the principal amount plus accrued interest thereon to the date of redemption and a premium. Sales Tax Revenue Bonds debt service requirements to maturity are as follows:

Year ending December 31,	Principal	Interest	Total
2010	$ 21,420	$ 41,960	$ 63,380
2011	22,835	40,918	63,753
2012	23,975	39,773	63,748
2013	18,505	38,571	57,076
2014	19,465	37,612	57,077
2015-2019	111,365	172,546	283,911
2020-2024	74,770	145,402	220,172
2025-2029	155,225	128,355	283,580
2030-2034	308,320	70,900	379,220
2035-2036	125,965	8,090	134,055
	$ 881,845	$ 724,127	$ 1,605,972

Certifications of participation relate to debt issued by Regional Transportation District Asset Acquisition Authority, Inc., a nonprofit corporation. The Authority issued Certificates of Participation (Certificates) with the proceeds being used to acquire certain equipment and facilities to be used by the District. The District leases the equipment acquired with the proceeds from the Certificates under two separate Master Lease Purchase Agreements. For financial reporting purposes, the District accounts for the Certificates as its own debt. Annual debt service requirements on the Certificates to maturity are as follows:

Year ending December 31,	Principal	Interest	Total
2010	$ 26,725	$ 13,694	$ 40,419
2011	28,030	12,380	40,410
2012	29,395	11,012	40,407
2013	25,405	9,710	35,115
2014	23,925	8,554	32,479
2015-2019	90,695	29,083	119,778
2020-2024	63,000	7,499	70,499
2025	3,960	99	4,059
	$ 291,135	$ 92,031	$ 383,166

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

Commercial Paper

The District issued $92.5 million of Commercial Paper. For 2009, interest rates range from .33% to 1.95%. As of December 31, 2009, the District has outstanding Commercial Paper in the amount of $22 million, which matures at various dates during 2010. For 2010, the district will retire principal of $22 million of the outstanding $22 million Commercial Paper. The $22 million is considered a current liability.

Changes in Long-Term Liabilities

Long-term liability activity for the year ended December 31, 2009, was as follows:

	Beginning Balance	Additions	Reductions	Ending Balance	Due Within One Year
Bonds payable:					
Sales Tax Revenue Bonds	$902,275	$ -	$20,430	$881,845	$21,420
Certificates of Participation	309,475	-	18,340	291,135	26,725
Commercial Paper	46,000	-	24,000	22,000	22,000
Less unearned amounts:					
Issuance premiums and discounts	43,941	-	3,584	40,357	-
Unearned loss on refunding	(10,890)	-	(1,245)	(9,645)	-
Total Bonds Payable	1,290,801	-	65,109	1,225,692	70,145
Arbitrage	9,478	-	9,478	-	-
Other Liabilities*	16,312	9,106	-	25,418	-
Unearned Revenue	392	-	86	306	94
Total long-term liabilities	$1,316,983	$9,106	$74,673	$1,251,416	$ 70,239

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

Long-term liability activity for the year ended December 31, 2008, was as follows:

	Beginning Balance	Additions	Reductions	Ending Balance	Due Within One Year
Bonds payable:					
Sales Tax Revenue Bonds	$924,400	$15,930	$38,055	$902,275	$20,430
Certificates of Participation	326,990	-	17,515	309,475	18,340
Commercial Paper	70,000	-	24,000	46,000	46,000
Less unearned amounts:					
Issuance premiums and discounts	46,416	1,113	3,588	43,941	-
Unearned loss on refunding	(11,605)	(744)	(1,459)	(10,890)	-
Total Bonds Payable	1,356,201	16,299	81,699	1,290,801	84,770
Arbitrage	5,825	3,755	102	9,478	-
Other Liabilities*	13,472	2,840	-	16,312	-
Unearned Revenue	472	-	80	392	86
Total long-term liabilities	$1,375,970	$22,894	$81,881	$1,316,983	$ 84,856

*Other liabilities consist of Net Pension Obligation liability reflecting the cumulative differences between pension cost and employer's contributions to the plan.

In 2008, the District issued its Sales Tax Revenue Refunding Bonds, Series 2008A, in the par amount of $15,930 for the purpose of refunding Series 1997 Bonds maturing between November 1, 2008 and November 1, 2012. The final maturity of the 2008A Refunding Bonds is November 1, 2012. This refunding was undertaken to reduce total debt service payments by $660 and resulted in a net present value cash flow savings of $610.

On December 13, 2006, the District entered into interest rate swap agreements with JP Morgan Chase Bank, N.A., The Royal Bank of Canada and UBS AG, Stamford Branch in order to hedge against significantly increased interest rates on a financing which was expected to occur on or before February, 2010. The terms of these three swap agreements were identical and are summarized below:

1.	Notional Amount of Swap (each):	$200,000
2.	Effective Date:	December 13, 2006
3.	Termination Date:	February 1, 2010
4.	Maturity Date	November 1, 2039
5.	RTD Pays:	4.0518%
6.	Counterparties Pay:	Securities Industry and Financial Markets Association

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

At the time of trade execution, RTD planned to issue Sales Tax Bonds and to lock in a long-term fixed rate of approximately 4.5% for $600 million of voter authorized FasTracks debt.

The FasTracks financial plan and project timing have undergone significant modifications since the swaps were executed in 2006, such that the size and timing of additional bonding has changed from that outlined in the initial plan. In order to manage the swaps prior to their cash settlement dates of February 1, 2010. Negotiations were initiated with the Counterparties in an effort to limit the District's swap exposure. A summary of the modifications follow:

1. The Swap between RTD and JP Morgan was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011 at a cash price to RTD of $6,798 and an increase in the fixed rate from 4.0518% to 4.0718%.
2. The swap between RTD and UBS was assumed by Morgan Stanley, and the variable rate was converted from the SIFMA index to 79.80% of the 3-month LIBOR index versus a fixed rate reduced from 4.0518 to 3.753%. In addition, the swap was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011 at a cash price to RTD of $7,065. Additionally, in return for the reduction of the fixed rate, the swap was included with an option for Morgan Stanley to terminate the swap at $0 value, i.e. no payment is made from or to either party.
3. The swap between RTD and Royal Bank of Canada was converted from the SIFMA index to 77.57% of the 3-month LIBOR index versus a fixed rate reduced from 4.0518% to 3.855% at a cash price to RTD of $6,929. In return for the reduction in the fixed rate, the RTD granted Royal Bank of Canada an option to terminate the swap at $0 value, i.e. no payment is made from or to either party. In addition, the swap was modified such that the Effective Date of the transaction was extended from February 1, 2010 to February 1, 2011.

The swaps are summarized in the table below:

Counterparty	RTD Pays	RTD Receives	Trade Date	Effective Date	Notional Amount	Value @12/31/09
JP Morgan	4.0718%	SIFMA	11/12/09	02/01/11	200 mil	(9,154)
Morgan Stanley	3.7530%	79.80% of 3 mo. LIBOR	12/21/09	02/01/11	200 mil	(7,304)
Royal Bank of Canada	3.8850%	77.57% of 3 mo. LIBOR	12/30/09	02/01/11	200 mil	(9,594)

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE D – LONG TERM DEBT (CONTINUED)

Risks Associated with Swap Agreements:

Credit Risk – Credit risk is the risk that the counterparty becomes unable to fulfill its financial obligations as dictated by the swap contract. The District measures the extent of this risk based upon the credit ratings of the counterparties and the fair value of the swap agreements. As of December 31, 2009, the credit ratings of the District's counterparties were as follows:

Counterparty	Standard & Poor's Corporation	Moody's Investors Service	Fitch Ratings
JP Morgan Chase Bank, NA	AA-	A1	AA-
The Royal Bank of Canada	AA-	Aaa	AA
Morgan Stanley Capt Services[(1)]	A	A2	A

(1) With a surety bond provided by Columbia Insurance Company and a guarantee from Berkshire Hathaway , ratings of which are: AA+, Aa2, AA+, by Standard & Poor's Corporation, Moody's Investors Service and Fitch Ratings, respectively.

In the event of deterioration in the credit ratings of either the District or its counterparties, the posting of collateral may be required to secure obligations under the contract.

Termination Risk – Termination risk is the risk the swaps may be terminated for certain credit events or if any party to the swaps fails to perform under the terms of the contract. Additionally, RTD has the option to terminate its swap agreements at any time, in its sole discretion, should it prove advantageous for it to do so. As of December 31, 2009, the termination values of the District's swaps were as follows:

Counterparty	Notional Amount	Termination Value
JP Morgan Chase Bank, NA	$200,000	($9,154)
The Royal Bank of Canada	$200,000	($9,594)
Morgan Stanley Capt Services	$200,000	($7,304)

In each case, a payment would have been required from RTD to its counterparties in order to terminate the swaps on December 31, 2009.

Market Access Risk – The fair values take into consideration the prevailing interest rate environment and the specific terms and conditions of each swap. All fair values were estimated using the zero-coupon discounting method. This method calculates the future payments required by the swap, assuming that the current forward rates implied by the yield curve are the market's best estimate of future spot interest rates. These payments are then discounted using the spot rates implied by the current yield curve for a hypothetical zero-coupon rate bond due on the date of each future net settlement payment on the swaps.

Basis Risk – Basis risk is the risk arising from imperfectly correlated movements in the variable rate indexes under a swap agreement. This imbalance in variable rate payments may create a cost differential resulting in a net cash outflow to the counterparty.

NOTE E – EMPLOYEE RETIREMENT AND UNEARNED COMPENSATION PLANS

Plan Description

The District maintains two single-employer defined benefit pension plans for substantially all full-time employees. The Regional Transportation District Salaried Employees' Pension Plan (the RTD Plan) covers all non-union, full-time salaried employees who have reached the age of 21. The Regional Transportation District and Amalgamated Transit Union Division 1001 Pension Plan (the Union Plan) was established pursuant to collective bargaining agreements between RTD and the Union. This plan covers substantially all full-time union represented employees in accordance with the union agreement. The Board of Directors of each plan has the authority for establishing and amending benefits and funding policy. Each plan is administered by a pension board and issues audited financial statements, which include financial information for that plan. Those financial statements may be obtained from the plan:

Regional Transportation District
Salaried Employees Pension Trust
7000 North Broadway, Building 106
Denver, Colorado 80221

RTD ATU 1001 Pension Plan
2821 S. Parker Road
Aurora, Colorado 80014-2602

The RTD Pension Plan provides retirement benefits to District salaried employees who retire at or after age 55 with at least five years of service. These employees are entitled to a single lump sum distribution or an annual retirement benefit, payable monthly for life. The normal retirement benefit is equal to 2½% of average final compensation to which a participant is entitled on the day the participant retires, multiplied by the number of years of credited service. A single plan participant that retired July 31, 2009 was awarded two and one-half (2 1/2) years of service credit for each year worked. The District provided an excess benefit plan for a single participant to fund the portion of the retirement benefit that is in excess of the amount allowed to be distributed to a participant from the defined benefit plan under IRC section 415. The plan was fully funded in the amount of $1,363 when the participant retired in July 2009.

RTD board adopted amendment No. 8 effective January 1, 2008 salaried employee new hires shall not be eligible to participate in the RTD Plan. New salaried employees will be eligible to participate in the new RTD defined contribution plan (the RTD DC Plan). The Board of Directors for the RTD DC plan has the authority for establishing and amending benefits and funding policy. The District contributes 9% of the employee's qualifying wage, contributions totaled $452 and $128 in 2009 and 2008, respectively. District employees cannot contribute to the RTD DC Plan. Membership as of December 31, 2009 was 95 active employees.

The Union Plan provides retirement benefits to employees who retire at or after a certain age with at least a specified number of years of service. These employees are entitled to a percentage of their final average earnings based on age and credited service at retirement.

The information below presents multiyear trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE E – EMPLOYEE RETIREMENT AND UNEARNED COMPENSATION PLANS (CONTINUED)

The following schedule (derived from the most recent actuarial valuation reports) reflects membership for the plans as of January 1, 2009:

	RTD Plan	Union Plan
Active employees	510	1,656
Pensioners	165	1,108
Inactive vests	116	799
	791	3,563

Funding Status and Annual Pension Cost

Contributions to the RTD Plan are actuarially determined. District employees are not required to contribute to the RTD Plan. Contributions to the Union Plan are made in accordance with the Union agreement. This agreement requires the District to contribute 8% and the employee 3% of the employee's qualifying wages. RTD has no liability to the Union Plan beyond its contributions.

Based on actuarial valuations performed as of January 1, 2009, the RTD Plan had unfunded actuarial accrued liabilities of $4,759 and the Union Plan had unfunded actuarial accrued liabilities of $80,626. The actuarial value of assets for both plans is determined by spreading gains and losses over a five-year period.

Schedule of Funding Progress – RTD Plan

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability	Funding Excess (Deficiency)	Funding Ratio	Covered Payroll	Unfunded Actuarial Liability as % of Covered Payroll
1/1/07	$93,637	$84,586	$9,051	110.7%	$34,076	N/A
1/1/08	102,494	93,498	8,996	109.62%	38,034	N/A
1/1/09	95,398	100,157	(4,759)	95.25%	36,499	(13.0%)

Schedule of Funding Progress – Union

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability	Funding Excess (Deficiency)	Funding Ratio	Covered Payroll	Unfunded Actuarial Liability as % of Covered Payroll
1/1/07	$230,255	$264,462	$(34,207)	87.07%	$69,807	(49.0%)
1/1/08	243,016	282,477	(39,461)	86.03%	75,898	(52.0%)
1/1/09	213,273	293,899	(80,626)	72.57%	76,978	(104.7%)

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE E – EMPLOYEE RETIREMENT AND UNEARNED COMPENSATION PLANS (CONTINUED)

Three-year Trend Information – RTD Plan

	Annual pension cost (APC)	Percentage of APC contributed	Net Pension Obligation
RTD Pension Plan			
Year end December 31,			
2007	$3,410	97%	$ -
2008	3,925	87%	-
2009	4,932	87%	1,780

RTD Pension Plan NPO Liability Disclosure	2009	2008	2007
Annual Pension Cost (APC)	$4,932	$ -	$ -
Contribution Made	3,152	-	-
Increase/Decrease NPO	1,780	-	-
NPO Beginning of year	0	-	-
NPO Ending of year	$ 1,780	$ -	$ -

Three-Year Trend Information – Union Plan

	Annual pension cost (APC)	Percentage of APC contributed	Net Pension Obligation
ATU 1001 Pension Plan			
Year end December 31,			
2007	$ 9,344	65%	$13,472
2008	8,943	68%	16,312
2009	13,371	45%	23,638

ATU 1001 Pension Plan NPO Liability Disclosure	2009	2008	2007
Actuarially Determined Contribution (ARC)	$ 13,451	$ 9,009	$ 9,423
Interest on NPO	1,305	1,078	815
Adjustment	(1,385)	(1,144)	(894)
Annual Pension Cost (APC)	13,371	8,943	9,344
Contribution Made	6,045	6,103	6,056
Increase/Decrease NPO	7,326	2,840	3,288
NPO Beginning of year	16,312	13,472	10,184
NPO Ending of year	$ 23,638	$ 16,312	$ 13,472

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE E – EMPLOYEE RETIREMENT AND UNEARNED COMPENSATION PLANS (CONTINUED)

Actuarial Methods and Assumptions

RTD annual pension cost for the current year, based on actuarial valuation plans performed as of January 1, 2009, and related information for each plan, is as follows:

	RTD Pension Plan	ATU 1001 Pension Plan
Contribution rates:		
RTD	9%	8%
Employees	-	3%
Annual pension cost	$ 4,932	$ 13,371
Contributions made	$ 3,152	$ 6,045
Actuarial valuation date	January 1, 2009	January 1, 2009
Actuarial cost method	Entry age normal	Entry age normal
Amortization method	Level-dollar; open	Level percentage of payroll; closed
Remaining amortization period	30 Years	14 years
Asset valuation method	Market	Market
Actuarial assumptions:		
Inflation Rate/Payroll Growth	3%	3%
Investment rate of return	8%	8%
Projected salary increases	Age based table	3-7%
Cost-of-living adjustments	-	-

Amalgamated Transit Union Division 1001 Health and Welfare Trust

The Amalgamated Transit Union Division 1001 Health and Welfare Trust was formed pursuant to a Trust Agreement effective July 1, 1971, between Amalgamated Transit Union Division 1001 (ATU 1001) and an agent of a transit enterprise owned by the City and County of Denver, through July 3, 1974, and the Regional Transportation District (RTD) thereafter. In addition to the original Denver Metro Division, employees of other RTD divisions have been approved for participation in the Trust benefits. The Trust agreement shall continue in full force and effect in all its terms and provisions so long as there continues to be a collective bargaining agreement between the Union and the District.

The Trust provides health benefits (hospital, medical, dental, vision, life and short-term disability) for represented employees of the RTD and certain officers of ATU 1001 and health care benefits for retired employees. The District's contribution was $11,293 and $11,409 for the years ended December 31, 2009 and 2008, respectively. The Trust also provides insurance coverage for felonious assault for each employee and funds the Amalgamated Transit Union Division 1001 Legal Services Trust. The Trust self-insures part of its health benefits, life insurance coverage and short-

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE E – EMPLOYEE RETIREMENT AND UNEARNED COMPENSATION PLANS (CONTINUED)

Amalgamated Transit Union Division 1001 Health and Welfare Trust (Continued)

term disability. The plan issues audited financial statements, which include financial information for the plan. The financial statements may be obtained from the plan.

RTD ATU 1001 Health and Welfare Trust
2821 S. Parker Road, Suite 1005
Aurora, Colorado 80014-2602

Unearned Compensation Plan

The District offers its employees an unearned compensation plan (the Plan), created in accordance with Internal Revenue Code Section 457, which is available to substantially all employees and permits them to defer a portion of their compensation to future years. Under the terms of the Plan, the unearned compensation is available to participants upon termination, retirement, death or in the event of an unforeseeable emergency or other financial hardship.

A single plan participant agreement included provisions to pay maximum allowable contributions including the catch-up facet for 457plan in the amount of $22 and $20.5 for years ended December 31, 2009 and 2008, respectively. The contributions were included in the participant's annual salary and wages. The single participant retired as of July 31, 2009.

Compensated Absences

The table below shows the amount of compensated absences due within one year of December 31, 2009 and 2008, and the change between the two years. The District considers all accrued compensated absences as due within one year.

	12/31/08 Balance	2009 Accruals	2009 Payments	12/31/09 Balance
Represented Employees	$ 1,926	$ 766	$ 958	$ 1,734
Salaried Employees	7,227	3,285	3,364	7,148
Total compensated absences due	$ 9,153	$4,051	$4,322	$8,882

The accrued compensation liabilities of $16,073 and $15,931 as of December 31, 2009 and December 31, 2008, include $7,191 and $6,778 of accrued wages, salaries, and fringe benefits in addition to accrued compensated absences.

NOTE F – OPERATING LEASES – LESSOR

Air Rights Lease

In 1982, the District entered into an agreement with a real estate partnership to lease the air space above the District's Civic Center transfer facility located in downtown Denver for the purpose of constructing, leasing and operating a 21-story office building for a period of 65 years. Under the terms of the lease agreement, the District began receiving minimum annual rental income of approximately $400 beginning in 1987. In addition, the District is entitled to receive 38% of the annual net cash flow proceeds, as defined in the lease agreement, from the rental of space in the office building. This amount totaled approximately $400 in 2009. At the end of the lease term, the District acquires title to the office building. Future minimum rentals are approximately $400 annually until the lease expires in 2049. The air space is carried at a zero basis by the District.

NOTE G – UNEARNED REVENUE

During 1987, the District entered into an out-of-court settlement with an architect, a contractor and a supplier of materials for the design, construction and materials supplied on the Sixteenth Street Mall. The settlement provided for the District to receive a cash payment each year for 25 years. The actual payments will come from an annuities contract (rated AAA by Moody's Investment Services), which is maintained by a local insurance company. The District's revenue is an amount equal to the net present value of the future cash flows ($2,156) at the time of the settlement based on an interest rate of 8.6%. The District received an initial payment of $350. The next four payments were for $300 a year. The remaining payments are for $120 per year. As of December 31, 2009 and 2008, $306 and $392 respectively, of the initial deferral of $2,156 remains, which is recognized as repairs to the Mall are incurred.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE H – COMMITMENTS AND CONTINGENCIES

Commitments

Operating Lease

In 1976, the District entered into an operating lease for a portion of the land on which the Civic Center transfer facility is located in downtown Denver. As collateral for the lease, the District must maintain an account balance with a minimum market value of $1,500 in an escrow account, the interest on which accrues to the District until the lease expires. This amount in escrow is included in restricted assets in the accompanying financial statements. Fixed rental commitments under the lease in years subsequent to December 31, 2009, are as follows:

Year ending December 31,	
2010	$245
2011	247
2012	249
2013	252
2014	254
2015-2019	1,310
2020-2024	1,377
2025-2029	1,448
2030-2034	1,521
2035-2039	1,599
2040-2049	1,680
2045-2049	1,766
2050-2054	1,856
2055-2059	1,951
2060-2064	2,050
2065-2069	2,155
2070-2074	2,265
2075	467
	$ 22,692

Rental expense relating to this lease amounted to $242 and $240 for the years ended December 31, 2009 and 2008, respectively.

NOTE H – COMMITMENTS AND CONTINGENCIES (CONTINUED)

Operating Leases (Continued)

RTD has entered into a number of transactions in which certain of its light rail have been leased to and subleased back from certain U.S. and foreign companies and has entered into a transaction in which its maintenance facilities have been leased to and subleased back. As part of these transactions, RTD irrevocably set aside certain moneys (which were received from each counterparty as payment for its leasing of light rail vehicles and real property) with a third party trustee. The moneys held by such trustees will be utilized to make the lease payments owed by the RTD under the transactions are therefore considered fully funded and economically defeased.

Cross Border Leases

In December 1996, the District entered into an 18-year cross border lease agreement and other related agreements with DB Export-Leasing GmbH for the sale and leaseback of six light rail vehicles. The District has made investment arrangements to meet all of its payment obligations throughout the term of the lease.

In December 1994, the District entered into an 18-year cross border lease agreement and other related agreements with DB Export-Leasing GmbH for the sale and leaseback of eleven light rail vehicles. The District has made investment arrangements to meet all of its payment obligations throughout the term of the lease.

U.S. Leveraged Lease

In July and December 1997, the District entered into two U.S. leverage lease agreements with Pitney Bowes Credit Corporation for the lease and leaseback of 17 light rail vehicles and four transportation and maintenance facilities. The District has made investment arrangements to meet all its payment obligations throughout the terms of the leases.

Capital Projects

As of December 31, 2009, the District has contracts for the construction of various capital projects and the purchase of buses and light rail vehicles. Costs to complete these projects and the purchases of buses/light rail vehicles total $255,527 and $261,670 in 2009 and 2008, respectively.

Federal Grant Match Requirements

Under the provisions of current FTA grants, the District is obligated to satisfy certain matching requirements of these grants. At December 31, 2009, the District had a commitment to provide $25,494 in matching funds in order to receive $113,261 in future federal grant funds.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE H – COMMITMENTS AND CONTINGENCIES (CONTINUED)

Privatization Contracts

In response to the privatization legislation (Note A), the District has awarded contracts for specific groups of routes, not to exceed 58% as required by law for vehicular services.

ADA Paratransit Service

With the passage of the Americans with Disabilities Act of 1990 (ADA), the District was mandated to provide paratransit service to the disabled individuals unable to use the District's fixed route buses, operating the same days and hours of service as the fixed route service. This service, called access-a-Ride, is a curb-to-curb (with door-to-door assistance upon special request) transportation system offered to disabled individuals who cannot functionally use the District's regular fixed route system. Passengers eligible for access-a-Ride service must originate their trip within 3/4 of a mile of a District non-commuter fixed route. Since September 1996, the District has been in full compliance with the Americans with Disabilities Act of 1990 requirement to provide paratransit service to the disabled individuals unable to use District fixed route buses.

Future Commitments under Service Contracts

The fixed commitments under the Privatization and ADA Paratransit Service contracts in the years subsequent to 2009 are as follows:

Year ending December 31,	
2010	$125,155
2011	119,347
2012	109,637
2013	104,608
2014	97,486
Total	$556,233

Diesel Fuel Contract

RTD contracts with Suncor Energy (U.S.A.) Inc for diesel fuel. The contract is structured as a base year with four year options to renew. RTD is on the third option for 2010. The fixed commitment under the Suncor contract in subsequent year 2010 is $12,150. RTD estimates usage of 5.4 million gallons at unit cost of $2.25 per gallon.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE H – COMMITMENTS AND CONTINGENCIES (CONTINUED)

Contingencies

Federal Grants

The District receives federal grants for capital projects and operating assistance, which are subject to audit by FTA. Although the outcome of any such audit cannot be predicted, it is management's opinion these audits will not result in liabilities to such an extent that they would materially affect the District's financial position.

Self-Insurance

The District is self-insured for general liability and Workers' Compensation claims. Liabilities are reported when it is probable that a loss has occurred and the amount of the loss can be reasonably estimated.

The District does not carry excess liability insurance for personal injury and property damage. Under the provisions of the Colorado Government Immunity Act, the maximum liability, with certain exceptions as defined in the Act, to the District for claims involving personal injury and property damage is $150 per individual and $600 per incident. For Workers' Compensation, an excess coverage insurance policy covers individual claims in excess of $2,000. The amount of settlements has not exceeded insurance coverage in any of the past three years.

The District's liability for unpaid claims includes an amount for claims that have been incurred but not reported (IBNR). RTD's Risk Management RTD's Risk Management adjusters determine incurred claims by investigating the accident and establishing a reserve. Reserves are established on the day of assignment, reviewed at 30 days and again at 90 days. Reserves are reviewed every 90 days thereafter and based on ultimate exposure. This amount is included in other accrued expense in the statement of net assets. Changes in the balances of claims liabilities for both general liability and Workers' Compensation during the past year are as follows:

	General Liability	Workers' Compensation	Total
Unpaid claims, January 1, 2008	$1,661	$1,231	$2,892
Incurred claims (including IBNR)	1,732	2,269	4,001
Claims payments	(1,586)	(2,120)	(3,706)
Unpaid claims, December 31, 2008	$1,807	$1,380	$3,187
Incurred claims (including IBNR)	1,202	2,534	3,736
Claims payments	(943)	(2,132)	(3,075)
Unpaid claims, December 31, 2009	$2,066	$1,782	$3,848

*All claim liabilities are considered current liabilities payable within one year.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE H – COMMITMENTS AND CONTINGENCIES (CONTINUED)

Contract Disputes and Legal Proceedings

The District is party to a number of pending or threatened lawsuits under which it may be required to pay certain amounts upon final disposition of these matters. The District's attorney estimates that the ultimate outcome of these matters is either sufficiently covered by the District's general liability and Workers' Compensation reserves or would not materially affect the financial statements of the District. As of December 31, 2009, the District has no outstanding judgments payable within one year.

NOTE I – NET ASSETS

	December 31,	
	2009	2008
Invested in capital assets, net of related debt	$1,456,493	$1,338,453
Restricted net assets		
Restricted debt service and project related	55,907	62,075
Tabor emergency	15,158	16,821
FasTracks related	386,582	331,148
Total restricted net assets	457,647	410,044
Unrestricted assets net assets[1]	132,035	143,913
Total net assets	$2,046,175	$1,892,410

[1] Substantially all of the unrestricted net assets, although not legally restricted, have been appropriated or reserved by the District's Board for future capital acquisition, operating reserve policy, and debt liquidation during the budget process.

NOTE J – BUDGETARY DATA

The District's annual budget is prepared on the same basis as that used for accounting except that the budget also includes proceeds of long-term debt and capital grants as revenue and expenditures include capital outlays and bond principal payments, and excludes TABOR rebates under Amendment One, extraordinary loss and depreciation on, as well as gains and losses on disposition of, property and equipment. The budget sets forth all proposed outlays for operations, planning, administration, development, debt service, and capital outlays for the calendar year. Prior to October 15, the General Manager submits to the Board of Directors a proposed operating and capital budget for the fiscal year commencing the following, January 1, which is made available for public inspection and comment. On or before December 31, the budget is adopted in conjunction with an appropriation resolution by the Board of Directors, who must also approve subsequent amendments thereto. In the absence of such adoption, the District has authority to begin making expenditures limited to 90% of the prior year's approved appropriation. The District's policy on budget transfers authorizes the General Manager to approve certain transfers within the budget.

December 31, 2009 and 2008 (Dollars in Thousands)

NOTE J – BUDGETARY DATA (CONTINUED)

A reconciliation of the annual budget, as amended, to actual revenue and expenses is as follows:

	Year ended December 31,	
	2009	2008
Revenue, actual	$573,420	$611,530
Proceeds from debt / Arbitrage Relief	9,478	17,695
Less: Proceeds from refunding debt	0	(16,421)
Federal capital grants and local contributions	131,711	39,389
Revenue, actual (budgetary basis)	714,609	652,193
Revenue, budget	1,480,156	1,154,271
Expenses, actual	551,366	536,925
Capital outlays	410,354	277,978
Depreciation, amortization, other	(106,926)	(103,148)
Gain (Loss) on Value of Capital Asset	(22,000)	0
Long-term debt principal payment	65,109	63,020
Expenses, actual (budgetary basis)	897,903	774,775
Appropriations	1,520,041	1,197,224
Unused appropriations	$622,138	$422,449

Unused appropriations lapse at year-end, except the Board of Directors has the authority, as stated in the adopted appropriation resolution, to carry over the unused portion of funds for capital projects not completed, for a period not to exceed three years. As of December 31, 2009, there were approximately $609.5 million of unused 2009 appropriations for capital outlays available for carryover to 2010.

NOTE K – TAX, SPENDING AND DEBT LIMITATIONS

In November 1992, Colorado voters passed an amendment (Amendment One) to the State Constitution (Article X, Section 20) that limits the revenue raising and spending abilities of state and local governments. The limits on property taxes, revenue, and "fiscal year spending" include allowable annual increases tied to inflation and local growth in construction valuation. Fiscal year spending as defined by the amendment excludes spending from certain revenue and financing sources such as federal funds, gifts, property sales, fund transfers, damage awards, and fund reserves (balances). The amendment requires voter approval for any increase in mill levy tax rates, new taxes, or creation of multi-year debt. Revenue earned in excess of the "spending limit" must be refunded to the taxpayers unless voters approve retention of these revenues. In addition, the amendment mandates that reserves equal to 3% of fiscal year spending be established for declared emergencies.

NOTE K – TAX, SPENDING AND DEBT LIMITATIONS (CONTINUED)

On November 7, 1995, the voters of the District exempted the Regional Transportation District from the revenue and spending limitations concerning the Amendment through December 31, 2005. On November 2, 1999, the voters of the District further exempted the District from the revenue and spending limitations outlined in the Amendment for the purpose of paying any debt incurred to finance the Southeast Corridor light rail project or to operate such project for as long as any debt remains outstanding, but in no event beyond December 31, 2026.

On November 2, 2004, the voters of the District authorized an increase in the District's sales and use tax rate from 0.6% to 1.0%, effective January 1, 2005, to finance the FasTracks transit improvement program. This authorization also exempted the District from any revenue and spending limitations on the additional tax and on any investment income generated by the increased tax revenue, and allowed the District to incur debt to finance the capital improvements included in the FasTracks program. At the time that all FasTracks debt is repaid, the District's sales and use tax rate will be reduced to a rate sufficient to operate the rapid transit system financed through FasTracks.

As of December 31, 2007, the District has $3.477 billion in authorized debt, of which $600 million have been issued, subject to the Amendments' limitations. This debt was authorized by the voters of the District in 2004 to pay for the FasTracks rapid transit improvement program, and is scheduled to be issued between 2006 and 2014. Based on estimated fiscal year spending for 2009, $15.2 million of year-end net assets has been reserved for emergencies. The Amendment is complex and subject to judicial interpretation. The District believes it is in compliance with the requirements of the Amendment based on the interpretations of the Amendment's language available at year-end.

NOTE L – SUBSEQUENT EVENTS

A Portion of the RTD Sales Tax Bonds, Series 2000A, Series 2002A and Series 2004A (the "Refunded Bonds") in a total principal amount of $49,005 were refunded with the 2010 Refunding Bonds. The 2010 Refunding Bonds were offered and sold to investors on December 14, 2009 and produced savings of $1,831 million on a present value basis (3.737% percentage savings of the Refunded Bonds). Refunding Bonds closing occurred on January 5, 2010.

SUPPLEMENTAL INFORMATION

REGIONAL TRANSPORTATION DISTRICT
Schedule of Expense and Revenue
Budget and Actual - Budgetary Basis
Year ended December 31, 2009

(In Thousands)	Original and Final Budget	Actual	Variance - positive (negative)
Operating revenue			
Passenger fares	$ 93,449	$ 96,890	$ 3,441
Other	4,102	4,357	255
Total operating revenue	97,551	101,247	3,696
Operating expenses			
Salaries, wages and fringe benefits	149,969	161,747	(11,778)
Materials and supplies	59,870	56,835	3,035
Services	57,331	42,783	14,548
Utilities	9,805	9,512	293
Insurance	5,863	3,767	2,096
Purchased transportation	105,727	103,975	1,752
Leases and rentals	2,982	2,680	302
Miscellaneous	2,262	6,866	(4,604)
Total operating expenses	393,809	388,165	5,644
Operating loss	(296,258)	(286,918)	9,340
Nonoperating revenue (expenses)			
Sales and use tax	373,193	371,405	(1,788)
Federal operating assistance	89,275	68,146	(21,129)
Investment income	23,078	29,379	6,301
Other income	2,590	3,243	653
Gain/Loss on Capital Assets	-	40	40
Interest expense	(42,561)	(34,179)	8,382
Other expense/Unrealized Loss Capital Assets	-	(23,037)	(23,037)
Total nonoperating revenue (expenses)	445,575	414,997	(30,578)
Proceeds from debt	62,698	9,478	(53,220)
Capital outlay			
Capital expenses	987,199	410,354	576,845
Less capital grants	(267,572)	(131,711)	(135,861)
	719,627	278,643	440,984
Long-term debt principal payment	(63,861)	(65,109)	(1,248)
Excess (deficiency) of revenue and nonoperating income over (under) expenses, capital outlays and debt principal payments	(571,473)	(206,195)	$ 365,278
Increases (decreases) to reconcile budget basis to GAAP basis			
Capital expenses		410,354	
Proceeds from debt		(9,478)	
Long-term debt principal payment		65,109	
Depreciation		(106,025)	
INCREASE IN NET ASSETS		$ 153,765	

STATISTICAL SECTION

This part of the Regional Transportation District's comprehensive annual financial report presents detailed information as a context for understanding what the information in the financial statements, note disclosure, and required supplementary information says about the government's overall financial health.

REGIONAL TRANSPORTATION DISTRICT
NET ASSETS BY COMPONENT (1) (In Thousands) Table 1

	2009	2008	2007	2006	2005	2004	2003	2002 (2)
Invested in capital assets, net of related debt (Note I)	$1,456,493	$1,338,453	$1,162,486	$1,167,667	$1,027,361	$ 835,035	$ 803,738	$758,399
Restricted (Note I)								
Emergencies	15,158	16,821	16,829	15,078	14,048	8,860	8,359	8,657
Reserves	442,489	393,223	412,822	232,702	120,653	-	-	-
Unrestricted (Note I)	132,035	143,913	186,280	140,626	204,176	296,945	269,944	200,839
Total net assets	$ 2,046,175	$ 1,892,410	$ 1,778,417	$ 1,556,073	$ 1,366,238	$1,140,840	$1,082,041	$ 967,895

(1) Data is taken from the financial records of the District and is presented on the accrual basis.
(2) Data is presented from 2002 when RTD implemented GASB Statement No. 34.

REGIONAL TRANSPORTATION DISTRICT Table 2
SUMMARY OF STATEMENT OF REVENUES AND EXPENSES
AND CHANGES IN NET ASSETS
(In Thousands)

	2009	2008	2007	2006	2005	2004	2003	2002 (1)
Operating Revenues:								
Passenger Fares	$ 96,890	$ 88,205	$ 77,128	$ 66,211	$ 57,638	$ 55,442	$ 50,459	$ 49,967
Other	4,357	4,124	4,382	3,310	5,103	5,581	4,088	2,646
Total Operating Revenues	101,247	92,329	81,510	69,521	62,741	61,023	54,547	52,613
Operating Expenses:								
Salaries, wages, fringe benefits	161,747	155,799	150,560	136,733	130,371	127,334	130,435	129,251
Materials and supplies	56,835	61,056	49,157	43,709	39,869	27,835	25,422	22,953
Services	42,783	36,835	30,654	29,864	22,344	20,127	21,499	17,926
Utilities	9,512	10,575	8,678	7,530	7,170	5,548	5,330	4,603
Insurance	3,767	5,333	5,090	5,722	6,569	7,451	8,217	9,531
Purchased transportation	103,975	102,743	97,819	93,003	86,330	76,759	66,970	64,974
Leases and rentals	2,680	2,464	2,195	1,758	1,568	1,460	1,655	1,587
Miscellaneous	6,866	2,619	2,390	3,144	2,347	2,815	2,247	2,338
Total Operating Expenses	388,165	377,424	346,543	321,463	296,568	269,329	261,775	253,163
Operating loss before depreciation	(286,918)	(285,095)	(265,033)	(251,942)	(233,827)	(208,306)	(207,228)	(200,550)
Depreciation	106,025	102,252	103,302	67,526	58,924	58,833	58,567	59,750
Operating Loss	(392,943)	(387,347)	(368,335)	(319,468)	(292,751)	(267,139)	(265,795)	(260,300)
Nonoperating income (expense):								
Sales and use tax revenues	371,405	412,824	418,407	399,557	386,427	221,276	210,447	213,668
Federal operating assistance	68,146	50,814	47,040	42,805	41,322	39,649	37,803	35,096
Interest income	29,379	52,456	57,471	29,936	15,624	9,439	10,095	18,815
Other income	3,243	3,106	4,706	4,031	3,484	3,621	3,550	3,493
Gain/Loss on Capital Assets	40	1	1,055	1,929	1,450	(50)	(1,311)	(780)
Interest expense	(34,179)	(56,273)	(52,272)	(29,689)	(21,163)	(18,385)	(19,786)	(20,208)
Other expense/Unrealized Loss Asset	(23,037)	(977)	(861)	(805)	(790)	(1,367)	(794)	(592)
Total Nonoperating Income	414,997	461,951	475,546	447,764	426,354	254,183	240,004	249,492
Net income before capital grants and local contributions	22,054	74,604	107,211	128,296	133,603	(12,956)	(25,791)	(10,808)
Capital grants and local contributions	131,711	39,389	115,133	61,537	97,384	71,755	139,936	50,570
Increase in Net Assets	153,765	113,993	222,344	189,833	230,987	58,799	114,145	39,762
Net Assets at Beginning of Year	1,892,410	1,778,417	1,556,073	1,366,240	1,140,841	1,082,042	967,897	928,135
Prior Period Adjustment					(5,588)			
Net Assets at End of Year	$2,046,175	$1,892,410	$1,778,417	$1,556,073	$1,366,240	$1,140,841	$1,082,042	$967,897

(1) Data is presented from 2002 when RTD implemented GASB Statement No. 34.

REGIONAL TRANSPORTATION DISTRICT

Table 3

OPERATING AND OTHER EXPENSES AND CAPITAL OUTLAYS (1)

Last Ten Years (Unaudited)

(In Thousands)

Year	Transit Operating Expenses (2)	Planning, Administrative and Development	Depreciation	Interest Expense (2)	Other Nonoperating Expenses	Capital Outlays (2)	Total
2000	189,505	30,977	34,532	12,084	178	209,674	476,950
2001	211,390	28,802	56,256	15,982	728	326,490	639,648
2002	224,231	28,932	59,750	20,208	1,372	164,954	499,447
2003	235,011	26,765	58,567	19,786	2,104	277,944	620,177
2004	242,176	27,153	58,833	18,385	1,418	217,201	565,166
2005	264,840	31,728	58,924	21,163	790	273,843	651,288
2006	284,360	37,104	67,526	29,689	805	208,361	627,845
2007	302,626	43,916	103,302	52,272	861	156,785	659,762
2008	324,931	52,492	102,252	56,273	977	282,758	819,683
2009	326,324	61,841	106,025	34,179	23,037	410,354	961,760

(1) Data is taken from the financial records of the District and is presented on the accrual basis.

(2) The District capitalizes certain interest costs, which are included in capital outlays.

REGIONAL TRANSPORTATION DISTRICT
REVENUE BY SOURCE (1)
Last Ten Years (Unaudited)
(In Thousands)

Table 4

Year	Operating Revenues	Sales/Use Tax(2)	Federal Operating Assistance	Interest Income	Other	Total Revenue	Federal Capital Grants	Local Capital Contributions	Total Revenue and Federal Capital Grants
2000	$48,921	$224,182	$27,554	$23,867	$3,220	$327,744	$56,420	$ -	$384,164
2001	50,641	224,648	30,204	20,614	2,481	328,588	87,335	13,293	429,216
2002	52,613	213,668	35,096	18,815	3,493	323,685	46,984	3,587	374,256
2003	54,547	210,447	37,803	10,095	3,550	316,442	135,917	4,019	456,378
2004	61,023	221,276	39,649	9,439	3,621	335,008	54,446	17,309	406,763
2005	62,741	386,427	41,322	15,624	3,484	509,598	86,523	10,861	606,982
2006	69,521	399,557	42,805	29,936	4,032	545,851	57,413	4,123	607,387
2007	81,510	418,407	47,041	57,471	4,706	609,135	107,577	7,556	724,268
2008	92,329	412,824	50,814	52,456	3,106	611,529	39,220	169	650,918
2009	101,247	371,405	68,146	29,379	3,283	573,460	129,211	2,500	705,171

(1) Data is taken from the financial records of the District and is presented on the accrual basis.
(2) The Districts Sales/Use Tax increased from .6% to 1% effective January 1, 2005.

REGIONAL TRANSPORTATION DISTRICT Table 5

RTD DEBT COVERAGE RATIOS (1)

(in Thousands)

LAST TEN YEARS (UNADUITED)

	Debt Sales Tax Service Requirements (2)			Sales Tax	Coverage
	Interest	Principal	Total	Collections	Ratio
2000	$ 4,576	$ 6,860	$ 11,436	$ 224,182	19.60
2001	7,306	9,360	16,666	224,648	13.48
2002	12,076	10,050	22,126	213,668	9.66
2003	15,650	9,205	24,855	210,447	8.47
2004	17,748	15,125	32,873	221,276	6.73
2005	18,683	12,415	31,098	386,427	12.43
2006	21,048	15,015	36,063	399,557	11.08
2007	48,445	38,590	87,035	418,407	4.81
2008	44,944	45,505	90,449	412,824	4.56
2009	43,210	44,430	87,640	371,405	4.24

	Debt Certificate of Partisipation Service Requirements		
	Interest	Principal	Total
2000	$ 7,107	$ 1,535	$ 8,642
2001	7,862	8,245	16,107
2002	9,545	10,265	19,810
2003	9,484	10,830	20,314
2004	10,472	11,345	21,817
2005	12,651	11,470	24,121
2006	14,393	16,155	30,548
2007	14,428	17,105	31,533
2008	14,502	17,515	32,017
2009	13,714	18,340	32,054

REGIONAL TRANSPORTATION DISTRICT Table 5

RTD DEBT COVERAGE RATIOS (1) (continued)

(in Thousands)

	Total Debt Service Requirements			Total	Coverage
	Interest	Principal	Total	Revenue	Ratio
2000	$ 11,683	$ 8,395	$ 20,078	$ 327,744	16.32
2001	15,168	17,605	32,773	328,588	10.03
2002	21,621	20,315	41,936	323,685	7.72
2003	25,134	20,035	45,169	316,442	7.01
2004	28,220	26,470	54,690	335,008	6.13
2005	31,334	23,885	55,219	509,598	9.23
2006	35,441	31,170	66,611	545,851	8.19
2007	62,873	55,695	118,568	609,135	5.14
2008	59,446	63,020	122,466	611,528	4.99
2009	56,924	62,770	119,694	573,460	4.79

(1) Source: The financial records of the District and the Offical Statements of the respective debt issues.

(2) Sales Tax Bonds include the 2001A Commercial Paper.

REGIONAL TRANSPORTATION DISTRICT

Table 6

Demographic and Operating Data

Last Ten Years (Unaudited)

	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
January 1 population within RTD service area	2,800,000	2,760,000	2,700,000	2,619,000	2,598,000	2,545,000	2,525,900	2,510,000	2,467,300	2,400,570
Cities and towns served	40	40	40	39	40	40	40	40	42	42
Square miles in service area	2,348	2,337	2,331	2,329	2,327	2,327	2,326	2,410	2,406	2,406
Total miles	48,862,622	49,947,763	50,706,993	49,167,392	49,167,392	49,053,000	48,399,000	47,000,000	49,165,000	43,683,500
Passenger stops	10,199	10,199	10,329	10,596	10,366	10,237	10,352	10,348	10,408	10,739
Number of routes (3)	150	165	170	166	174	177	175	181	182	180
Local	67	72	73	73	67	67	66	66	66	65
Express	20	24	25	24	37	38	37	41	42	44
Regional	16	18	18	16	20	20	20	20	20	20
Skyride	5	5	5	5	5	5	5	5	5	15
Circulator	-	-	-	-	1	1	1	3	3	2
Boulder City	15	15	15	15	15	16	16	16	16	15
Longmont City	7	7	8	8	8	8	8	8	8	7
Limited	11	13	15	15	15	16	16	15	16	15
Miscellaneous	9	11	11	10	6	6	6	7	6	7
Ridership average weekday, without Mall and LRT	212,758	224,918	207,734	198,629	194,077	180,467	168,712	178,012	186,798	183,916
Ridership average weekday, including Sixteenth Street Mall	259,873	273,737	255,987	246,992	254,928	243,395	229,776	237,067	243,265	238,102
Ridership average weekday, including Sixteenth Street Mall, LRT, ADA, and Van Pool	328,291	344,954	320,311	294,791	292,407	279,101	267,389	273,924	274,688	259,695
Total annual boardings without Mall, LRT and ADA	63,578,004	67,910,015	62,007,583	57,662,038	56,736,687	53,963,199	50,079,765	53,199,492	55,987,810	54,888,045
Total annual boardings, including Sixteenth Street Mall	77,928,088	82,727,534	76,620,488	74,637,863	75,100,270	72,221,606	67,652,418	70,354,789	72,483,296	70,906,920
Total annual boardings, including Sixteenth Street Mall and LRT	97,687,476	103,362,667	95,275,984	85,915,718	85,557,899	82,250,065	78,302,600	80,784,361	81,563,874	77,352,968
Total annual boardings, including Sixteenth Street Mall, LRT, ADA service, and Van Pool	98,746,429	104,071,339	96,326,580	86,842,675	86,371,859	82,978,959	78,911,922	81,322,400	81,988,849	77,704,986
Daily miles operated (average weekday), including Sixteenth Street Mall	149,750	152,848	155,153	154,078	158,464	158,188	155,795	156,561	152,833	148,921
Daily miles operated (average weekday), including Sixteenth Street Mall and Light Rail	159,824	163,987	166,571	165,666	163,398	163,057	160,634	161,488	156,307	150,625
Diesel fuel consumption, gallons (2)	5,400,000	6,000,000	6,000,000	6,100,000	6,100,000	6,000,000	6,400,000	7,100,000	7,900,000	7,700,000
Total active buses	1,050	1,039	1,071	1,071	1,071	1,074	1,064	1,127	1,122	1,069
Wheelchair lift equipped buses	1,050	1,039	1,071	1,071	1,071	1,074	1,064	1,127	1,122	1,058
Number of employees (authorized staff)										
Salaried	664	623	611	613	591	553	544	561	551	487
Represented (includes part-time	1,802	1,903	1,923	1,907	1,919	1,893	1,885	2,000	2,093	2,295
Fleet requirements (during peak hours)	830	862	862	851	880	863	855	856	842	797
Operating facilities (2)	6	6	6	6	6	6	6	6	6	6

* Not available

(1) Source: Population is based on estimates provided by the Denver Regional Council of Governments. All other data comes from the financial records of the District.

(2) Excludes purchased transportation services.

(3) Reflects fixed route service realignment as of November 2006 for the opening of the Southeast Light Rail Corridor service.

REGIONAL TRANSPORTATION DISTRICT

LARGEST PRIVATE EMPLOYERS-DENVER METRO AREA **Table 7**

Current Year and Nine Years Ago

	2009			2000		
	Employees	**Rank**	**Percentage of Total District Employment**	**Employees**	**Rank**	**Percentage of Total District Employment**
Wal-Mart	11,050	1	0.8%	13,800	2	1.0%
King Soopers, Inc.	10,850	2	0.7%			
HealthOne	9,180	3	0.6%	19,400	1	1.4%
Lockheed Martin Corp.	8200	4	0.6%	9,000	5	0.7%
Qwest Communications	7,500	5	0.5%	5,800	9	0.4%
Safeway Inc.	6,500	6	0.4%	5,400	10	0.4%
Exempla Healthcare	6,230	7	0.4%	10,000	3	0.7%
Centura Health	5,830	8	0.4%			
Kaiser Permanente	5,570	9	0.4%			
Target Corporation	5,200	10	0.4%	7,100	8	0.5%
AT&T				7,500	7	0.6%
United Airlines				9,300	4	0.7%
Lucent Technologies				7,600	6	0.6%
	76,110		5.2%	94,900		7.1%
Total Employment	1,470,229			1,339,332		

Source: Development Research Partners, Februry 2009

Debt Disclosure Tables for 2009 CAFR

CAFR Table	1998A OS Table	Table Title
8	I	TDP Operations Program
9	II	TDP Capital Program
10	IV	Additional Operating Data
11	V	RTD Statement of Debt
12	XI	RTD Annual Ridership and Fare Revenue
13	XII	RTD Advertising and Ancillary Revenues
14	XIII	RTD Federal Grant Receipts
15	XIV	Five-Year Summary of Rev/Exp Statements
16	XV	Five-Year Summary of Budget/Actuals
17	XVI	RTD 2009 and 2010 Budget

Debt Disclosure Tables Updated in Body of 2008 CAFR

1998A OS Table	Table Title	Location in CAFR
VI	RTD Revenues by Source	Statistical Section – Table 4
XVI	Summary Balance Sheet	Statement of Net Assets – pp. 38–39

REGIONAL TRANSPORTATION DISTRICT

Table 8

2010-2015 TDP OPERATIONS PROGRAM - 2009 DOLLARS (in thousands)

Program	2010	2011	2012	2013	2014	2015	Total Cost
Interest Payments[1,2]	$ 14,328	$ 13,010	$ 11,462	$ 11,287	$ 15,208	$ 19,456	$ 84,751
Bus Operations – Current RTD	111,601	98,866	102,618	119,285	123,141	126,623	682,134
Bus Operations – Private Carrier through Contract[1]	1,016	347	718	-	2,298	1,187	5,566
Bus Operations – Private Carrier after Contract[1]	85,071	87,638	90,251	93,074	95,412	100,875	552,321
Bus Operations - call-n-Ride[1]	4,722	4,845	5,005	5,170	5,341	5,517	30,600
Private Contract Administration Costs	1,244	1,276	1,318	1,362	1,407	1,453	8,060
Service Increases – RTD-Operated	-	-	-	-	-	-	-
Service Increases – Private Contractor[1]	-	-	-	-	-	-	-
FasTracks Service Allocation - 2006/2007 Service In	(3,824)	(3,923)	(4,053)	(4,187)	(4,325)	(4,468)	(24,780)
Cost Sharing Agreements - Bus Service[1]	1,905	1,955	2,019	2,086	2,155	2,226	12,346
Van Pool Program	1,031	1,058	1,093	1,129	1,166	1,205	6,682
Section 5011 Local Match	551	565	584	603	623	644	3,570
LRT Operations	39,585	40,770	42,331	44,062	45,400	46,898	259,046
ADA Operating Costs[1]	34,027	34,919	36,065	37,255	38,485	39,755	220,506
FasTracks Service Allocation - ADA	(6,552)	(6,723)	(6,945)	(7,174)	(7,411)	(7,655)	(42,460)
Facilities Maintenance - Base	19,311	19,813	20,467	21,142	21,840	22,561	125,134
Facilities Maintenance - Additional Costs	4,140	2,853	2,788	835	538	1,135	12,289
Direct Costs - Other Departments	24,811	25,456	26,296	27,164	28,061	28,987	160,775
Indirect Costs - Other Departments	34,159	35,360	36,527	37,732	38,977	40,263	223,018
Denver Union Station Costs	1,369	1,404	1,451	1,499	-	-	5,723
	-	-	-	-	-	-	-
	-	-	-	-	-	-	-
Grand Total	$368,495	$359,489	$369,995	$392,324	$408,316	$426,662	$2,325,281

[1]Interest payments, private carrier operations costs, call-n-ride, ADA operations costs, and passthrough grants are presented in year of expenditure dollars.

[2] Interest payments on bonds and certificates of participation issued for purposes other than Southeast Corridor or FasTracks.

REGIONAL TRANSPORTATION DISTRICT

Table 9

2010-2015 TDP CAPITAL PROGRAM - 2009 DOLLARS

Program	2010	2011	2012	2013	2014	2015	Total Cost
Long Term Debt[1]	$ 31,985	$ 34,781	$ 37,356	$ 30,167	$ 36,783	$ 38,493	$ 209,565
Southeast Corridor Debt Service[2]	52,370	29,053	29,049	29,050	29,051	29,049	197,622
Existing Corridors	-	-	-	-	-	-	-
Fleet Modernization and Expansion							-
Transit Buses	1,755	-	20,160	74,865	75,927	69,039	241,746
LRT Vehides	-	-	-	-	-	-	-
ADA Vehides	5,144	3,845	2,653	6,173	5,686	4,386	27,887
Van Pool Program	312	-	156	-	156	-	624
Major Spares	-	-	400	1,000	-	600	2,000
Passenger Infrastructure							-
Bus Infrastructure	775	775	775	775	775	775	4,650
Transfer Stations	-	-	-	-	-	-	-
Park-n-Rides	2,570	300	-	2,500	-	-	5,370
Capital Support Equipment							-
Vehides and Bus Maintenance Equipment	1,482	1,107	1,270	1,242	1,386	1,256	7,743
Treasury	100	-	-	-	-	-	100
Information Systems, Computer Equipment for Operations	384	560	-	-	1,900	-	2,844
Security Equipment	-	250	-	-	-	-	250
Bus Maintenance Facilities							-
Boulder	-	-	-	-	761	-	761
District Shops	-	-	-	-	1,265	416	1,681
East Metro	-	-	-	-	1,550	400	1,950
Platte	-	-	-	-	-	6,445	6,445
Light Rail Maintenance Facilities							-
Mariposa	-	53	-	-	-	-	53
Facilities District-wide	-	-		-	-	-	-
Discretionary Capital	200	200	200	200	200	200	1,200
Grand Total	$97,077	$70,924	$92,019	$145,972	$155,440	$151,059	$712,491

[1]Principal payments are set at the time the bonds are issued and do not change with inflation.

[2]Southeast Corridor debt service costs indude principal and interest payments on bonds, COPs, and commercial paper, and are presented in year of expenditure dollars.

REGIONAL TRANSPORTATION DISTRICT

Table 10

ADDITIONAL OPERATING DATA - 2009

Total miles (1)	48,862,622
Active bus stops	10,199
Number of routes (4)	150
Local	67
Express	20
Regional	16
SkyRide	5
City of Boulder Local	15
City of Longmont Local	7
Limited	11
Miscellaneous	9
Ridership average weekday, revenue service	281,175
Ridership average weekday, all services	328,291
Total annual boardings, revenue service	83,337,392
Total annual boardings, all services	98,746,429
Daily miles operated (average weekday), including Sixteenth Street Mall (2)	149,750
Daily miles operated (average weekday), including Sixteenth Street Mall and Light Rail (2)	159,824
Diesel fuel consumption, gallons (3)	5,400,000
Total active buses	1,050
Wheelchair lift equipped buses	1,050
Number of employees (actual staff) (3)	
Salaried	664
Represented (includes part-time drivers)	1,802
Fleet requirements (during peak hours)	830
Operating facilities (3)	6

(1) Reflects total miles (including Light Rail).
(2) Excludes special services.
(3) Excludes purchased transportation services.
(4) Reflects fixed route service realignment as of November 2006 for the opening of the Southeast Light Rail Corridor service.

REGIONAL TRANSPORTATION DISTRICT

Table 11

STATEMENT OF DEBT
as of December 31, 2009

Sales Tax Bonds	Outstanding[2]
RTD Sales Tax Revenue Bonds, Series 2000A[1]	17,695
RTD Sales Tax Revenue Bonds, Series 2002B[1]	31,150
RTD Sales Tax Revenue Refunding Bonds, Series 2003A[1]	3,615
RTD Sales Tax Revenue Bonds, Series 2004A[1]	47,445
RTD Sales Tax Revenue Bonds, Series 2005A[1]	99,475
RTD Sales Tax Revenue Bonds, Series 2006A[1] - FasTracks	235,735
RTD Sales Tax Revenue Refunding Bonds, Series 2007A[1] - FasTracks	362,695
RTD Sales Tax Revenue Refunding Bonds, Series 2007A[1]	69,825
RTD Sales Tax Revenue Refunding Bonds, Series 2008A[1]	14,210
TOTAL	$ 881,845

Commercial Paper	Outstanding[2]
RTD Subordinate Lien Sales Tax Revenue Commercial Paper, Series 2001A	$ 22,000

Lease Purchase Agreements	Outstanding[2]
Master Lease Purchase Agreement II Fixed Rate Certificates of Participation, Series 1998A	$ 12,415
Master Lease Purchase Agreement II Fixed Rate Certificates of Participation, Series 2001A	19,040
Master Lease Purchase Agreement II Fixed Rate Certificates of Participation, Series 2004A	45,935
Master Lease Purchase Agreement II Fixed Rate Certificates of Participation, Series 2005A	65,970
Master Lease Purchase Agreement II Fixed Rate Taxable Certificates of Participation, Series 2007A	15,375
Amended and Restated Certificates of Participation, Series 2002A	132,400
TOTAL	$ 291,135

[1] The Bond Resolution pursuant to which the RTD Sales Tax Revenue Bonds are issued provides that pledged for the payment of such Bonds are the Sales Tax Revenues and "any additional revenues legally available to RTD which the Board in its discretion may hereafter by Supplemental Resolution pledge to the payment of the Bonds".

[2] RTD is current on its obligations under all such debt.

RTD ANNUAL RIDERSHIP AND FARE REVENUE - 2000-2009 Table 12

(In Thousands)

Year	Revenue Boardings[1]	Fare Revenue	Percent Change in Fare Revenue
2000	61,815	$ 45,214	3.5%
2001	65,516	46,766	3.4%
2002	64,167	49,967	6.8%
2003	61,235	50,459	1.0%
2004	64,720	55,442	9.9%
2005	67,994	57,638	4.0%
2006	69,867	66,211	14.9%
2007	81,714	77,128	16.5%
2008	89,254	88,205	14.4%
2009	83,337	96,890	9.8%

[1] Totals for 2000-2009 include access-a-Ride boardings. Totals for 2002-2009 include vanpool boardings.

RTD ADVERTISING AND ANCILLARY REVENUES - 2000-2009 Table 13

(In Thousands)

Year	Advertising Revenue	Ancillary Revenues
2000	$ 3,385	$ 3,221
2001	3,411	2,469
2002	2,419	3,493
2003	2,886	3,550
2004	3,047	3,621
2005	3,196	3,484
2006	2,800	4,032
2007	3,194	4,706
2008	2,854	3,106
2009	2,866	3,243

RTD FEDERAL GRANT RECEIPTS - 2000-2009 Table 14

(In Thousands)

Year	Federal Capital	Other Local Contributions	Operations, Planning, and Other
2000	$ 56,420	$ -	$ 27,554
2001	87,334	13,293	30,204
2002	46,983	3,587	35,096
2003	135,917	4,020	37,803
2004	54,446	17,309	39,649
2005	86,523	10,861	41,322
2006	57,413	4,124	42,805
2007	107,577	7,556	47,041
2008	39,220	169	50,814
2009	129,211	2,500	68,146

REGIONAL TRANSPORTATION DISCTRICT

Table 15

FIVE-YEAR SUMMARY OF STATEMENT OF REVENUES AND EXPENSES
AND CHANGES IN NET ASSETS
(In Thousands)

	Years ended December 31				
	2009	2008	2007	2006	2005
Operating Revenues:					
Passenger Fares	$ 96,890	$ 88,205	$ 77,128	$ 66,211	$ 57,638
Other	4,357	4,124	4,382	3,310	5,103
Total Operating Revenues	101,247	92,329	81,510	69,521	62,741
Operating Expenses:					
Salaries, wages, fringe benefits	161,747	155,799	150,560	136,733	130,371
Materials and supplies	56,835	61,056	49,157	43,709	39,869
Services	42,783	36,835	30,654	29,865	22,344
Utilities	9,512	10,575	8,678	7,530	7,170
Insurance	3,767	5,333	5,090	5,722	6,569
Purchased transportation	103,975	102,743	97,819	93,003	86,330
Leases and rentals	2,680	2,464	2,195	1,758	1,568
Miscellaneous	6,866	2,619	2,390	3,144	2,347
Total Operating Expenses	388,165	377,424	346,543	321,464	296,568
Operating loss before depreciation	(286,918)	(285,095)	(265,033)	(251,943)	(233,827)
Depreciation	106,025	102,252	103,302	67,526	58,924
Operating Loss	(392,943)	(387,347)	(368,335)	(319,469)	(292,751)
Nonoperating income (expense):					
Sales and use tax revenues	371,405	412,824	418,407	399,557	386,427
Federal operating assistance	68,146	50,814	47,040	42,805	41,322
Interest income	29,379	52,456	57,471	29,936	15,624
Other income	3,243	3,106	4,706	4,032	3,484
Gain/Loss on Capital Assets	40	1	1,056	1,929	1,450
Interest expense	(34,179)	(56,273)	(52,273)	(29,689)	(21,163)
Other expense/Unrealized Loss	(23,037)	(977)	(861)	(805)	(790)
Total Nonoperating Income	414,997	461,951	475,546	447,765	426,354
Net income before capital grants and local contribu	22,054	74,604	107,211	128,296	133,604
Federal capital grants and local contributions	131,711	39,389	115,133	61,537	97,384
Increase in Net Assets	153,765	113,993	222,344	189,833	230,988
Net Assets at Beginning of Year	1,892,410	1,778,417	1,556,073	1,366,240	1,140,841
Prior Period Adjustment					(5,589)
Net Assets at End of Year	$ 2,046,175	$ 1,892,410	$ 1,778,417	$ 1,556,073	$ 1,366,240

REGIONAL TRANSPORTATION DISTRICT

Table 16

FIVE-YEAR SCHEDULE OF EXPENSES AND REVENUES - BUDGET AND ACTUAL - BUDGETARY BASIS*

	2009		2008		2007		2006		2004	
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
Operating Revenues:										
Passenger Fares	$ 93,449	$ 96,890	$ 85,786	$ 88,205	$ 68,633	$ 77,128	$ 63,842	$ 66,211	$ 56,117	$ 57,638
Other	4,102	4,357	4,041	4,124	3,791	4,382	3,992	3,310	4,863	5,103
Total Operating Revenues	97,551	101,247	89,827	92,329	72,424	81,510	67,834	69,521	60,980	62,741
Operating Expenses:										
Salaries, wages, fringe benefits	149,969	161,747	151,991	155,799	145,579	150,560	136,735	136,733	129,722	130,371
Materials and supplies	59,870	56,835	65,665	61,056	52,511	49,157	46,780	43,709	37,057	39,869
Services	57,331	42,783	46,828	36,835	45,460	30,654	37,436	29,865	30,102	22,344
Utilities	9,805	9,512	10,160	10,575	10,024	8,678	8,257	7,530	6,419	7,170
Insurance	5,863	3,767	7,393	5,333	7,244	5,090	6,930	5,722	7,528	6,569
Purchased transportation	105,727	103,975	103,354	102,743	98,842	97,819	91,508	93,003	87,205	86,330
Leases and rentals	2,982	2,680	4,001	2,464	4,234	2,195	6,121	1,758	6,139	1,568
Miscellaneous	2,262	6,866	844	2,619	523	2,390	2,028	3,144	1,592	2,347
Total Operating Expenses	393,809	388,165	390,236	377,424	364,417	346,543	335,795	321,464	305,764	296,568
Operating loss	(296,258)	(286,918)	(300,409)	(285,095)	(291,993)	(265,033)	(267,961)	(251,943)	(244,784)	(233,827)
Nonoperating revenue (expense):										
Sales and use tax	373,193	371,405	427,690	412,825	425,796	418,407	407,328	(319,469)	387,582	(292,751)
Federal operating assistance	89,275	68,146	53,865	50,813	53,439	47,040	48,812	-	42,715	-
Interest income	23,078	29,379	37,706	52,456	26,457	57,471	20,007	399,557	13,196	386,427
Other income	2,590	3,243	3,272	3,106	3,650	4,706	3,737	42,805	3,645	41,322
Gain/Loss on Capital Assets	-	40	-	1	-	1,056	-	29,936	-	15,624
Interest expense	(42,561)	(34,179)	(65,467)	(56,273)	(68,379)	(52,273)	(47,688)	4,032	(35,130)	3,484
Other expense/Unlrealized Loss	-	(23,037)	-	(977)	-	(861)	-	1,929	-	1,450
Total Nonoperating Revenue	445,575	414,997	457,066	461,951	440,963	475,546	432,196	158,790	412,008	155,556
Proceeds from issue of long-term debt	62,698	9,478	200,843	17,695	-	627,945	594,855	187,388	84,377	169,866
Capital outlay										
Capital expenses	987,199	410,354	646,087	282,758	480,536	156,785	474,685	273,843	519,992	217,201
Less capital grants	(267,572)	(131,711)	(81,590)	(39,389)	(138,218)	(115,133)	(80,723)	(61,537)	(119,192)	(97,384)
	719,627	278,643	564,497	243,369	342,318	41,652	393,962	212,306	400,800	119,817
Long-term debt principal payment	63,861	65,109	63,040	63,020	55,695	31,340	31,340	128,759	27,225	74,431
Excess (deficit) of revenue and nonoperating income over (under) expenses, capital outlay and debt principal payments	$ (571,473)	(206,195)	$ (270,037)	(111,838)	$ (249,043)	765,466	$ 333,788	(246,830)	$ (176,424)	(102,653)
Increases (decreases) to reconcile budget basis to GAAP basis										
Capital expenditures		410,354		282,758		156,785		273,843		217,201
Long-term debt proceeds		(9,478)		(17,695)		(627,945)		(187,388)		(169,866)
Long-term debt principal		65,109		63,020		31,340		128,759		74,431
Depreciation		(106,025)		(102,252)		(67,526)		(67,526)		(58,924)
Net Income		$ 153,765		$ 113,993		$ 258,120		$ (99,142)		$ (39,811)

* The District's annual budget is prepared on the same basis as that used for accounting except that the budget also includes proceeds of long-term debt and capital grants as revenues, and expenditures include capital outlays and bond principal payments, and exclude depreciation and gains and losses on disposition of property and equipment.

REGIONAL TRANSPORTATION DISTRICT Table 17

FY 2008 and 2009 Budget Summary (Dollars in Thousands)

	2008 Adopted	Aug-09 Amended	2010 Adopted
BEGSIGNATED WORKING CAPITAL BALANCE	$1,164,953	$1,077,050	$928,282
Drawdown from Working Capital	2,830	2,830	5,805
Local Capital Carryforward	60,186	36,413	28,719
Drawdown from Capital Acquisition Reserve	17,250	0	14,000
Southeast Corridor - Prior Year Revenues	30,254	24,247	23,905
FasTracks - Prior Year Revenues	649,123	500,710	482,428
NET WORKING CAPITAL	405,309	512,850	373,425
REVENUES			
Current Operating	407,186	399,277	401,853
Current Capital	111,512	119,489	83,028
Federal Capital Carryforward	35,154	36,391	53,311
Current FasTracks	446,714	360,799	545,596
Drawdown from COP Debt Service Reserve	2,830	0	5,805
Drawdown from Working Capital	60,186	2,830	28,719
Local Capital Carryforward	17,250	36,413	14,000
Drawdown from Capital Acquisition Reserve	0	0	0
Southeast Corridor - Prior Year Revenues	30,254	24,247	23,905
FasTracks - Prior Year Revenues	649,123	500,710	482,428
TOTAL REVENUES	1,760,209	1,480,156	1,638,645
EXPENDITURES			
Current Operating	473,705	457,977	464,839
Current Capital	832,659	732,695	488,025
Inventory Increase	1,600	2,000	0
Capital Carryforward	426,020	296,758	677,139
TOTAL EXPENDITURES	1,733,984	1,489,430	1,630,003
ENDING DESIGNATED WORKING CAPITAL BALANCE	431,535	503,576	382,067
RESERVES INCLUDED IN WORKING CAPITAL			
5.0% Operating Reserve	20,039	19,690	19,590
TABOR Reserve	16,999	14,892	15,132
Southeast Corridor Prior Year Revenues[1]	22,000	22,000	0
Capital Acquisition Reserve[2]	6,754	14,000	0
FasTracks Future Construction Reserve[3]	212,571	308,060	212,362
Other Designated Reserves[4]	114,013	92,323	103,270
Fastrcks Contingency Reserve[5]	30,000	30,000	30,000
TRANSIT DEVELOPMENT RESERVE	$9,158	$2,611	$1,713

[1] These represent revenues received for the Southeast Corridor project that are designated to be spent in current or future years.

[2] The Capital Acquisition Reserve is intended to fund major vehicle replacements or other new capital to be cash-financed.

[3] These represent revenues that are designated to be spent in current or future years for the construction of the FasTracks capital program.

[4] Other designated reserves included in the Designated Working Capital balance include funds legally restricted by bond covenants, other contracts, Board designation and policy guidelines.

[5] The FasTracks Contingency Reserve is an appropriated reserve which is available to fund future year expenditures for the FasTracks program which must be accelerated into the current year after the adoption of the annual budget.

APPENDIX B

DEFINITIONS OF TERMS

Unless otherwise specified, capitalized terms used in this Official Statement will have the meanings set forth below:

"0.4% Sales Tax" or *"0.4% Sales Tax Increase"* means the additional four-tenths of one percent sales tax increase approved by a referendum of District voters at the 2004 Election.

"0.4% Sales Tax Revenues" means the revenues from the 0.4% Sales Tax.

"0.6% Bond Resolution" means the bond resolution, as amended from time to time, pursuant to which the District issued the 0.6% Senior Bonds.

"0.6% Sales Tax" means the 0.6% sales tax imposed by the District to help support its activities.

"0.6% Sales Tax Revenues" means the revenues from the 0.6% Sales Tax.

"0.6% Senior Bonds" are the Sales Tax Revenue Bonds secured by a first lien on the 0.6% Tax Revenues previously issued by the District pursuant to a bond resolution.

"0.6% Senior Debt" means the 0.6% Senior Bonds together with the CP Notes.

"2004 Election" means the November 2, 2004 ballot referendum as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT–TABOR Portion" herein.

"Acceptable Bank" means a bank or other financial institution with a rating of at least "A-" by S&P, "A3" by Moody's or the equivalent as of the date of issuance of the applicable letter of credit.

"Account Agreement Permitted Investments" means:

(a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) Investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;

(c) Investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000, including the Trustee or any of its affiliates;

(d) Investment agreements, including guaranteed investment contracts, repurchase agreements, deposit agreements and forward delivery agreements that are obligations of an entity whose senior long term debt obligations, deposit rating or claims-paying ability are rated, or guaranteed by an entity whose obligations are rated (at the time the investment is entered into), not lower than "A2" by Moody's or its equivalent from another Nationally Recognized Rating Agency, including the Trustee or any of its affiliates;

(e) Money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated "AAA" by S&P and "Aaa" by

Moody's and (iii) have portfolio assets of at least $5,000,000,000; including any such fund to which the Trustee or any of its affiliates provides services as an investment advisor, custodian, subcustodian, investment manager, administrator and/or shareholder servicing agent, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to the Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee; and

(f) Investments in Subsidiaries.

"Account Bank" means The Bank of New York Mellon Trust Company, N.A., as Account Bank pursuant to the Lockbox Account Agreement.

"Account Bank Representative" means any officer of the Account Bank assigned to the corporate trust department or any other officer of the Account customarily performing functions similar to those performed by any such officer, with respect to matters relating to the administration of the Financing Documents to which the Account Bank is a party.

"Account Collateral" means the Indenture Account Collateral and the Lockbox Account Collateral.

"ACI" means Alternate Concepts, Inc.

"Actual DUS Access Date" means the date on which the District provides the Company with Vacant Possession of the DUS Rail Segment Site in accordance with the terms of the Concession Agreement.

"Additional Obligor" means any one of the following nominated in the "Step-In Notice" to become a joint and several obligor with the Company under the Concession Agreement and the Lenders' Direct Agreement delivered in accordance with the Lenders' Direct Agreement: (a) The Bank of New York Mellon Trust Company, N.A., as Agent Bank under the Lenders' Direct Agreement, a Lender or any of their respective Affiliates; or (b) any Person approved by the District in its discretion, which approval may not be unreasonably withheld or delayed if such Person meets all the criteria to be a Qualified Substitute Concessionaire and the Company has provided the District with the relevant information required under the Lenders' Direct Agreement with respect to such Person.

"Additional Parity Bonds" means any Additional Phase 1 Parity Bonds or Other Permitted Parity Bonds issued pursuant to the Indenture.

"Additional Parity Bonds Issuer Loan Agreement" means, for each series of Additional Parity Bonds, the loan agreement to be executed by the Issuer and the Company in connection with the issuance of such Additional Parity Bonds pursuant to the Indenture, with such changes as are acceptable to the Company and the Issuer.

"Additional Parity Bonds Loan" means the loan to the Company by the Issuer pursuant to the Additional Parity Bonds Issuer Loan Agreement of the entire amount of the proceeds from any Additional Parity Bonds issued pursuant to the Indenture.

"Additional Parity FasTracks Bonds" means any FasTracks Bonds subsequently issued by the District on a parity with the Outstanding FasTracks Bonds.

"Additional Phase 1 Parity Bonds" means the Additional Phase 1 Parity Bonds issued pursuant to the Indenture and described in "SECURITY FOR THE BONDS—Indenture" and APPENDIX G—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE" herein.

"Additional Sales Tax" means any sales tax, other than the Sales Tax, which shall have been (a) levied or imposed by the State or by the District pursuant to state legislative authorization and in effect at the time of the incurrence by the District of any proposed additional Senior RTD Debt in accordance with the Concession Agreement, (b) received by the District or the RTD Trustee for at least 12 consecutive months immediately

preceding the incurrence by the District of such proposed additional Senior RTD Debt, (c) levied or imposed in the District Sales Tax Area on substantially the same transactions or other incidents as the Sales Tax for a period expiring no sooner than the Expiry Date and (d) pledged at the District's sole discretion, as part of the security for the payment of Senior RTD Debt and included by the District as part of the RTD Pledged Revenues prior to the certification described in the Concession Agreement.

"Additional TABOR Portion" means, for each calendar year, the amount in dollars identified as "Additional TABOR Portion" in the Additional TABOR Portion Notice delivered by the Company to the District pursuant to the Concession Agreement and described in "PAYMENTS UNDER THE CONCESSION AGREEMENT–Overview of TABOR Portion and RTD Appropriation Obligations" herein.

"Additional TABOR Portion Notice" means a notice delivered by the Company to the District pursuant to the Concession Agreement and as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT" herein.

"Adjustable Base Service Payment" means the amount determined by the formula set forth in the Concession Agreement.

"Affected Party" means:

(a) with respect to the Concession Agreement, the Party claiming that it, or anyone acting on its behalf, has been prevented from or delayed in performing any of its obligations under the Concession Agreement by a Force Majeure Event; or

(b) with respect to the O&M Contract, the Party prevented from or delayed in performing any of its obligations under the O&M Contract or the other Contract Documents because of a Force Majeure Event.

"Affected Portion" means any part of the Concessionaire-operated Components that is damaged or partially destroyed.

"Affiliate" of any Person means any entity which directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with that Person.

"Amendment 61" means the Colorado initiative scheduled for the November 2010 election that would require all borrowings of local governments to receive prior voter approval of the electors of the local government at elections to be held only in November that will be effective after 2010.

"Applicable Design Build Period" means the period commencing on the earlier of the Early Work Effective Date and the Phase 1 Effective Date and ending on the Final Completion Date with respect to the East Corridor Service.

"Applicable Interest Sub-Account" means the Series 2010 Interest Sub-Account and each other "interest account or sub-account" established in the Revenue Account by the Account Bank pursuant to the Lockbox Account Agreement in connection with the issuance of a series of Additional Parity Bonds under the Indenture.

"Applicable Operating Period" means the period from and including the Revenue Service Commencement Date with respect to the East Corridor Service to (and including) the earlier of the Expiry Date or the Termination Date.

"Applicable Principal Sub-Account" means the Series 2010 Principal Sub-Account and each other "principal account or sub-account" established in the Revenue Account by the Account Bank pursuant to the Lockbox Account Agreement in connection with (a) the issuance of a series of Additional Parity Bonds under the Indenture or (b) the Promissory Notes.

"Applicable Requirements" means:

(a) with respect to the Concession Agreement, the requirements of any Law made or of any Permit issued by any Relevant Authority in each case to the extent that the same are applicable to the Company, the Work, the Concessionaire-operated Components or the Eagle P3 Project, including the Specified Requirements;

(b) with respect to the Design Build Contract, the requirements of any Law made or of any Permit issued by any Relevant Authority in each case to the extent that the same are applicable to the Design Build Contractor, the Work or the Project, including the Specified Requirements; or

(c) with respect to the O&M Contract, the requirements of any Law made or of any Permit issued by any Relevant Authority in each case to the extent that the same are applicable to the O&M Contractor, the Services or the Project, including the Specified Requirements.

"Applicable Standards" means those codes and standards listed in the Scope Document; provided, however, that if any portion of such codes and standards conflicts with or is less stringent than Applicable Requirements or other requirements in the Contract Documents, such conflicting or less stringent portions of such standards shall not be deemed "applicable."

"Applicable Termination Amount" means the Concessionaire Default Amount, RTD Default Amount or the FM Termination Amount, as applicable.

"Appropriation Deficiency" means any Fiscal Year for which adequate funds to meet any RTD Appropriation Obligations have not been included in such Fiscal Year's RTD Adopted Budget as described in "ACCOUNTS AND FLOW OF FUNDS–Additional Conditions and Requirements with Respect to Flow of Funds."

"Assigned Agreements" means all agreements and contracts (other than all contracts and other agreements of the Company relating to the sale or other disposition of all or any part of the Inventory, Equipment or Documents and all rights, warranties, claims and benefits of the Company against any Person arising out of, relating to or in connection with all or any part of the Inventory, Equipment or Documents of the Company, including any such rights, warranties, claims or benefits against any Person storing or transporting any such Inventory or Equipment or issuing any such Documents), in each case, to which the Company is a party or of which it is a beneficiary (as amended, supplemented, amended and restated or otherwise modified and in effect from time to time), including (a) all contracts and agreements related to the Project to which the Company is a party or of which it is a beneficiary and (b) each and every bond, indemnity, warranty, guaranty and other similar document relating to the performance by any party (other than the Company).

"Authorized Denomination" means denominations of $5,000 principal amount and integral multiples thereof.

"Availability" means train and station availability and on-time performance as defined in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement" herein.

"Availability Adjusted Base Annual Service Payment" means the product of the amount of the Base Annual Service Payment and the Availability Factor.

"Availability Factor" is used to calculate the Availability Adjusted Base Annual Service Payment as defined in "PAYMENTS UNDER THE CONCESSION AGREEMENT–TABOR Portion as Subordinate Lien Sales Tax Obligation."

"Availability Ratio" means the "Availability Ratio (AR_{mn})" as determined in accordance with provisions of the Concession Agreement related to determining Service Payments and as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT–Calculation of Service Payments" herein.

"Balfour Beatty, LLC" means Balfour Beatty, LLC, a Delaware limited liability company.

"Balfour Beatty plc" means Balfour Beatty plc, a public limited company organized under the laws of England.

"Bank of Scotland" means Bank of Scotland PLC, a public limited company organized under the laws of Scotland.

"Bankruptcy Event" means:

(a) An involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Company or of a substantial part of the assets of the Company under any insolvency law or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Company or a substantial part of the Company's assets and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or

(b) The Company shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Company or for a substantial part of the Company's assets, or (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or (iii) make a general assignment for the benefit of creditors, or (iv) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, or (v) commence a voluntary proceeding under any insolvency law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any insolvency law, or (vi) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), and, in any case referred to in the foregoing subclauses (i) through (v), such action has not been cured within twenty (20) days thereafter.

"Base Annual Service Payment" means, for each year during the Operating Period, the "Base Annual Service Payment ($BASP_n$)," expressed in Base Rate Dollars as determined in accordance with the Concession Agreement, as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT–Calculation of Service Payments" herein.

"Base Case Equity IRR" means the nominal post-tax Equity IRR (i.e. post-tax with respect to the Company and pre-tax with respect to its Shareholders or other beneficial owners) set out in the Financial Model as at Financial Close (as updated from time to time to reflect any sharing of reductions in cost in accordance with the Concession Agreement) and calculated over the period from Financial Close to the Expiry Date.

"Base Case Model" means the base case financial model forecasting the revenues and expenditures of the Eagle P3 Project, as amended or otherwise modified from time to time.

"Base Rate Dollar" means the value of Dollars calculated in accordance with the Concession Agreement.

"BBRI" means Balfour Beatty Rail, Inc.

"Beneficial Owners" means purchasers of beneficial interests in the Series 2010 Bonds.

"Bid Insurance Cost" means U.S.$4,701,694.

"Blue Sky Laws" means the laws and accompanying regulations regulating the offers and sales of securities and of those selling them in each of the 50 states, the District of Columbia and territories of Puerto Rico and Guam.

"Board" means the Board of Directors of the District.

"Bond Counsel" means Sherman & Howard L.L.C., or other attorneys selected by the District, with the consent of the Company, which consent shall not be unreasonably withheld, who have nationally recognized

expertise in the issuance of municipal securities, the interest on which is excluded from gross income for federal and State income tax purposes.

"Bondholder Longstop Date" means the date that is two (2) months prior to the Revenue Service Deadline Date.

"Bond Obligations" means all obligations of the Company under the Series 2010 Issuer Loan Agreement, any Additional Parity Bonds Issuer Loan Agreements (if executed) and the other Financing Documents.

"Bond Purchase Agreement" means that certain Bond Purchase Agreement to be entered into among the Underwriters, the District and the Company.

"Bond Resolution" means the resolution of the Issuer adopted on July 13, 2010, authorizing the issuance of the Series 2010 Bonds.

"Bonds" means the Series 2010 Bonds together with the Additional Parity Bonds issued from time to time pursuant to the Indenture, if any.

"Bond Year" means:

(a) for purposes of the Financing Documents, with respect to any series of Bonds, each one-year period ending on the anniversary of the date of delivery of such Bonds or such other period as may be elected by the Issuer in accordance with Treasury Regulations and notice of which election has been given to the Trustee; or

(b) the 12 months commencing on the second day of November of any calendar year and ending on the first day of November of the next succeeding calendar year.

"Borrower" means the Company in its capacity as Borrower under the Loan Agreement.

"Borrower Construction Account" means the Borrower Construction Account created by and designated as such in the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement" herein.

"Borrower Construction Account Withdrawal Certificate" means the certificate substantially in the form attached to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Borrower Construction Account*" herein.

"Borrower's Free Cash Flow" or "*Company's Free Cash Flow"* means, with respect of any period, the following amounts, each calculated on an actual or projected basis, as applicable: all Project Revenues received or projected to be received, as applicable, by the Company plus any amounts on deposit or projected to be on deposit, as applicable, in the Renewal Works Reserve Account less all O&M Expenditures, including Rolling Stock Expenditures, paid or projected to be paid, as applicable, by the Company during such period.

"Business Day" means any day other than a Saturday, a Sunday or a day on which offices of the United States government or the State are authorized to be closed or on which commercial banks in New York, New York, Washington, D.C., or the city and state in which the Trustee is located are authorized or required by law, regulation or executive order to be closed (unless otherwise provided in a Supplemental Indenture).

"Calculation Date" means each April 15, July 15, October 15 and January 15 of each calendar year.

"Car" means a car forming part of the Rolling Stock.

"Car Structure" means the requirements for carbody structure as set forth in the Rolling Stock Supply Contract.

"Casualty Event" means the damage or destruction of any part of the Concessionaire-operated Components in respect of which the Design Build Contractor, O&M Contractor or the District, as the case may be, is obligated to maintain insurance pursuant to the Design Build Contract, the O&M Contract and/or the Concession Agreement, prior to the date care, custody and control of such Concessionaire-operated Components has passed to the Company in accordance with the terms of the Design Build Contract and the O&M Contract, as applicable.

"Change" means a change or variation required or proposed in accordance with the Concession Agreement, and may include additions, amendments or reductions to the scope of the Eagle P3 Project and includes any work carried out in connection with and as a result of any Concessionaire Proposed Change or RTD Proposed Change as described in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement–Changes."

"Change in Law" means the introduction or repeal (in whole or in part) of or amendment, alteration or modification to or change in interpretation of (in each case including, to the extent applicable, by retroactive effect), any Law or standards, practices or guidelines issued or published by any Relevant Authority that are either binding on the Company, or if nonbinding on the Company, are both typically complied with in the operation and maintenance and/or railroad industries and are necessary in order to comply with Good Industry Practice, that occurs on or after the Final Proposal Due Date; *provided* that the coming into effect or repeal (in whole or in part) of or amendment, alteration or modification to or change in interpretation of any Law or standards, practices or guidelines issued or published by any Relevant Authority that have been enacted and published as of the Final Proposal Due Date but have not come into effect by such date, shall not constitute a Change in Law.

"Change in Law Change" means a Change in Law that constitutes a Discriminatory Change in Law or has a Change in Law Effect.

"Change In Law Contingency" means the amounts reserved, at the option of the Company, for any payments due in connection with a Change In Law Change pursuant to the Concession Agreement.

"Change in Law Effect" means a Change in Law that (a) will result in a material delay or increase in the cost of the carrying out the Work during the Design Build Period, (b) will result in an increase in costs of performing the Company's obligations under the Concession Agreement with respect to the Concessionaire-operated Components during the Operating Period, and/or (c) will have an adverse effect on the financial position of the Company as established in the Financial Model immediately prior to the occurrence of such Change in Law, taking into account certain factors set out in the Concession Agreement and as described in "PRINCIPAL PROJECT AGREEMENTS–Design Build Contract–*Scope Changes*."

"Change of Control" for purposes of the Financing Documents shall be deemed to have occurred if:

(a) a prohibited issuance or share transfer under the Concession Agreement shall have occurred and the District has not waived compliance with the requirements therein; or

(b) prior to the Revenue Service Commencement Date with respect to the East Corridor Service, the Company shall have issued any shares to any Person (other than the shares representing the initial share capital issued to the Initial Shareholders before the Closing Date or shares representing increases in share capital issued to the Initial Shareholders after the Closing Date) without the prior written consent of the Owners of a majority in aggregate principal amount of the Bonds (such consent not to be unreasonably withheld or delayed) unless such issuance is in connection with a transfer of a direct or indirect ownership interest in the Company or shares are issued by the Company:

(i) to any Affiliate of a Sponsor;

(ii) to any Person, where the interest in question is in a publicly traded fund or company that is an indirect owner of the Company;

(iii) to any Person; *provided* that such transfer would not result in a material increase in the risk of the Company being unable to perform its obligations under the Concession Agreement, which

determination shall be based upon and take into account the financial strength and integrity of the proposed transferee, as compared to the relevant experience of the transferor and the background and reputation of the proposed transferee, its direct and indirect beneficial owners (other than as specified in subclause (ii) above), any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective affiliates (including the absence of criminal, civil or regulatory claims or actions against such Person and the quality of any such Person's past or present performance on other projects); or

(iv) to an LBG Associate or a Laing Associate; or

(c) prior to the Revenue Service Commencement Date with respect to the East Corridor Service, Fluor shall have transferred or disposed of any interest in the Company (other than for any internal restructurings that do not reduce its percent ownership interest in the Company as in effect on the date of the Series 2010 Issuer Loan Agreement).

"Claims" means claims, demands, actions, proceedings or liabilities.

"Closing Date" means the date the Series 2010 Bonds are issued, authenticated and delivered in accordance with the Indenture.

"Co-Account Bank" means the co-Account Bank appointed by the Account Bank and Company (with written notice to the Trustee) with respect to all or any portion of the Lockbox Account Collateral, in any case with such powers, rights, duties, obligations and immunities conferred upon the Account Bank under the Lockbox Account Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

"Collateral" means all of the Company's right, title and interest, whether now owned or in the future acquired by it and whether now existing or in the future coming into existence and wherever located, in and to the following property:

(a) all accounts, chattel paper, deposit accounts, documents, general intangibles, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, and other minerals;

(b) its rights, title and interest in, to and under the Concession Agreement;

(c) all Account Collateral

(d) all Secured Accounts;

(e) all Instruments and all interest, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any Instruments;

(f) all Inventory;

(g) all Equipment;

(h) all Documents;

(i) to the extent permitted thereby and not described above, all general intangibles, including all contracts and other agreements of the Company relating to the sale or other disposition of all or any part of the Inventory, Equipment or Documents and all rights, warranties, claims and benefits of the Company against any Person arising out of, relating to or in connection with all or any part of the Inventory, Equipment or Documents of

the Company, including any such rights, warranties, claims or benefits against any Person storing or transporting any such Inventory or Equipment or issuing any such Documents;

(j) to the maximum extent assignable (including by operation of Sections 9-406 or 9-408 of the UCC, or otherwise), all "Assigned Agreements") (provided that any such agreement, contract or document which by its terms or by operation of law would become void, voidable, terminable, or revocable if mortgaged, pledged or assigned under the Security Agreement or if a security interest in the Assigned Agreements was granted under the Security Agreement is expressly excepted and excluded from the Security Interest and terms of the Security Agreement to the extent necessary so as to avoid such voidness, avoidability, terminability or revocability); including: (i) all rights of the Company to receive moneys due and to become due under or pursuant to the Assigned Agreements, (ii) all rights of the Company to receive proceeds of any insurance, bond, indemnity, warranty or guaranty with respect to the Assigned Agreements, (iii) all claims of the Company for damages arising out of or for breach of or default under the Assigned Agreements and (iv) all rights of the Company to terminate, amend, supplement, modify or waive performance under the Assigned Agreements, to perform under the Assigned Agreements and to compel performance and otherwise to exercise all remedies under the Assigned Agreements;

(k) all accounts of the Company not constituting Secured Accounts, including, to the extent related to all or any part of the other Collateral,

(l) all other tangible and intangible property and fixtures of the Company, including all intellectual property;

(m) to the maximum extent assignable (including by operation of Sections 9406 et seq. of the UCC or otherwise) all Governmental Approvals held as of the date of the Security Agreement or thereafter in the name, or for the benefit, of the Company (provided that any Governmental Approval by its terms or by operation of law, would become void, voidable, terminable or revocable if mortgaged, pledged or assigned under the Security Agreement or if a security interest in such Governmental Approvals granted under the Security Agreement is expressly excepted and excluded from the Security Interest and terms of the Security Agreement to the extent necessary so as to avoid such voidness, avoidability, terminability or revocability);

(n) all commercial tort claims arising out of the events described in the Security Agreement, if any (as it may be supplemented from time to time);

(o) all proceeds of Insurance; and

(p) all proceeds, rents, profits, income, benefits, substitutions and replacements of and to any of the property of the Company described in the preceding clauses of this definition (including all causes of action, claims and warranties held by the Company as of the date of the Security Agreement or thereafter in respect of any of the items listed above) and, to the extent related to any property described in such clauses or such proceeds, all books, correspondence, credit files, records, invoices and other documents, including all tapes, cards, computer runs and other papers and documents in the possession or under the control of the Company or any computer bureau or service company from time to time acting for the Company.

"Commercial Paper Notes" means any Securities that (a) have a stated maturity date that is not more than 270 days after the date of issuance thereof and (b) are designated as Commercial Paper Notes in the resolution authorizing their issuance, but does not include any Credit Facility Obligations relating to such Securities.

"Commuter Rail Maintenance Facility" or "CRMF" means the commuter rail maintenance facility to be situated on the CRMF Site as described in the Concession Agreement and as shown on the maps on p.__ of this Official Statement.

"Commuter Rail Network" means the Commuter Rail Projects, the CRMF, the Existing Facilities and, following the Actual DUS Access Date, the DUS Rail Segment and, if the Phase 2 Effective Date fails to occur on or before the Phase 2 Condition Precedent Satisfaction Date, DUS to CRMF, including, in each case, subject to the Concession Agreement, the Site.

"Commuter Rail Projects" means the East Corridor Project and, following the Phase 2 Effective Date (or the Phase 2 Work Commencement Date, for purposes of the Design Build Contract and O&M Contract), the Gold Line Project and the Northwest Rail Electrified Segment Project.

"Commuter Rail Service" means the East Corridor Service and, from the Phase 2 Effective Date (or the Phase 2 Work Commencement Date, for purposes of the Design Build Contract and O&M Contract), the Gold Line Service and the Northwest Rail Electrified Segment Service.

"Company" means Denver Transit Partners, LLC, a Delaware limited liability company.

"Company Representative" or *"Borrower's Representative"* means (a) the chief executive officer of the Company; or (b) any other individual (or individuals) so designated by the Company to act as Company Representative under any Financing Document.

"Concession Agreement" means the Concession and Lease Agreement, dated July 9, 2010, as amended on July 22, 2010, and as further amended, supplemented or otherwise modified from time to time, between the Company and the District, and all attachments, exhibits and schedules thereto, as supplemented or further amended from time to time.

"Concessionaire" means the Company in its capacity as party to the Concession Agreement.

"Concessionaire Default Amount" means each of the amounts calculated, during either of the Design Build Period or the Operating Period, in accordance with the respective formula set forth in the Concession Agreement for determining the Applicable Termination Amount in the event of a Company Termination Event, as described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"Concessionaire Design Submittals" means drawings, designs, specifications, calculations, reports, plans, procedures and other items and other information to be submitted in connection with the design of the Commuter Rail Projects and/or the Rolling Stock, including the Final Design Submittals, in accordance with the Concession Agreement, the Contract Data Requirements List and the Third Party Agreements.

"Concessionaire-operated Components" mean the Commuter Rail Network and the Rolling Stock.

"Concessionaire-operated Expansion" means any Other RTD Project operated and maintained by the Company, to the extent such project constitutes a rail line connected to, or fixtures, facilities or infrastructure incorporated into, the Commuter Rail Network, as an additional element of the Eagle P3 Project.

"Concessionaire Proposed Change" means:

(a) with respect to the Concession Agreement, suggestions by the Company at any time during the Design Build Period or the Operating Period for any variation to the Final Project Design, the Design, Construction and Rolling Stock Requirements or the O&M Specifications which in its opinion would reduce the cost of constructing, maintaining or operating the Commuter Rail Network, improve the efficiency or value to the District of the completed Commuter Rail Network, enable the Company to better manage the risks assumed by the Company under the Concession Agreement in respect of the Work and/or the Commuter Rail Network, or otherwise be of benefit to the District;

(b) with respect to the Design Build Contract, a Scope Change that is initiated by the Company (including a Scope Change resulting from a change in Final Project Design or the Scope Document, as well as changes resulting from a Change in Law that reduces the cost of the Work, but excluding Changes in Law for which the Design Build Contractor may seek relief as provided in the Design Build Contract); or

(c) with respect to the O&M Contract, any Modification initiated by the Company.

"Concessionaire's Proposal" means the final proposal that was delivered by the Company to the District in response to the RFP and attached to the Concession Agreement.

"Concessionaire's Punch List" means, with respect to each Commuter Rail Project, an itemized list of Work prepared (and periodically revised) by the Company (which list shall include all items of Work specified in a schedule to the Revenue Service Commencement Certificate applicable to such Commuter Rail Project or as otherwise specified by the District or the Independent Engineer pursuant to the Concession Agreement) and submitted to Design Build Contractor, setting forth the items of Work which remain to be completed with respect to such Commuter Rail Project after the Revenue Service Commencement Date for such Commuter Rail Project has been achieved and before the Final Completion Date for such Commuter Rail Project has been achieved, which Work is of a minor nature which does not affect beneficial occupation or safe use of the Commuter Rail Network or part thereof by the Company or members of the public and, where agreed with the District, any other Work in connection with or related to a Commuter Rail Project which remains incomplete at the Revenue Service Commencement Date for such Commuter Rail Project and associated Commuter Rail Service.

"Concessionaire Termination Event" means, subject to the Concession Agreement and described in APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT," any of the events listed or described below:

(a) the Company fails to commence the Work within four months after the Phase 1 Effective Date;

(b) the Revenue Service Commencement Certificate in respect of any Commuter Rail Service is not, or there is no reasonable prospect of it being, issued on or before the Revenue Service Deadline Date (any Dispute as to what constitutes "no reasonable prospect" to be determined by the Technical Panel in accordance with the Dispute Resolution Procedure), *provided* that, with respect to the Gold Line Service and the Northwest Rail Electrified Segment Service, no such Concessionaire Termination Event may arise if the Phase 2 Effective Date has not occurred;

(c) the Final Completion Certificate in respect of any Commuter Rail Project is not, or there is no reasonable prospect of it being, issued on or before the Final Completion Deadline Date (any Dispute as to what constitutes "no reasonable prospect" to be determined by the Technical Panel in accordance with the Dispute Resolution Procedure), *provided* that, with respect to the Gold Line Project and the Northwest Rail Electrified Segment Project, no such Concessionaire Termination Event may arise if the Phase 2 Effective Date has not occurred;

(d) the Company abandons the Work and (i) the Company expressly declares in writing that it will not resume the Work or (ii) such abandonment continues for ninety (90) consecutive days without prior written consent of the District;

(e) an involuntary proceeding is commenced or an involuntary petition is filed seeking (i) liquidation, reorganization or other relief in respect of any of the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period) or the O&M Contractor (during the Operating Period) or any of their debts, or of a substantial part of their assets, under any federal, state or foreign bankruptcy, insolvency, receivership or similar law in effect as of the date of the Concession Agreement or thereafter or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any of the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period or the Operating Period) or the O&M Contractor (during the Operating Period) or for a substantial part of any of their assets, and, in any such case, such proceeding or petition shall continue undismissed for a period of sixty (60) or more days or an order or decree approving or ordering any of the foregoing shall be entered; *provided* that no such Concessionaire Termination Event shall have occurred: (x) in the case of insolvency of a Shareholder, where such insolvent Shareholder has transferred its ownership in the Company and its equity funding obligations to any other existing solvent Shareholder no later than sixty (60) days following such insolvency; and (y) in the case of insolvency of any Project Contractor, the Company has entered into a replacement Design Build Contract or O&M Contract, or, as the case may be, the Design Build Contractor has entered into a replacement Rolling Stock Supply Contract, in any such case, with a reputable

counterparty reasonably acceptable to the District no later than sixty (60) days following the date of termination of the Design Build Contract, the O&M Contract and/or the Rolling Stock Supply Contract (as applicable);

(f) any of the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period or the Operating Period) or the O&M Contractor (during the Operating Period) shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law in effect as of the date of the Concession Agreement or thereafter, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (e) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for itself or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing; *provided* that no such Concessionaire Termination Event shall have occurred: (A) in the case of insolvency of a Shareholder, where such insolvent Shareholder has transferred its ownership in the Company to any other existing solvent Shareholder no later than sixty (60) days following such insolvency; and (B) in the case of insolvency of any Project Contractor, the Company has entered into a replacement Design Build Contract or O&M Contract, or, as the case may be, the Design Build Contractor has entered into a replacement Rolling Stock Supply Contract, in any such case, with a reputable counterparty reasonably acceptable to the District no later than sixty (60) days following the date of termination of the Design Build Contract, the O&M Contract and/or the Rolling Stock Supply Contract (as applicable);

(g) the operation of the Concessionaire-operated Components by the Company in a manner violating the Applicable Requirements or the Concession Agreement and endangering the safety of Passengers following a written notice from the District outlining such safety concerns;

(h) any failure by the Company to obtain and maintain sufficient committed funding for the Eagle P3 Project (i) during the Design Build Period or (ii) after the last Final Completion Date, in the event there are any material cost overruns for which the Company is required to secure funding, which failure to obtain and maintain sufficient committed funding would, with the passage of time, reasonably be expected to result in a Concessionaire Termination Event (other than under the Concession Agreement, as described in either case (i) or (ii), which failure has not been remedied by the Company within a period of ninety (90) days following its occurrence;

(i) the Design Build Contract is terminated during the Design Build Period, the Rolling Stock Supply Contract is terminated during the Design Build Period or the Operating Period and/or the O&M Contract is terminated during the Operating Period and the Company has not entered into a replacement O&M Contract or Design Build Contract, or, as the case may be, the Design Build Contractor has not entered into a replacement Rolling Stock Supply Contract, in any such case, with a reputable counterparty reasonably acceptable to the District within ninety (90) days following the date of termination of the Design Build Contract and/or the O&M Contract and/or within sixty (60) days following the termination of the Rolling Stock Supply Contract (as applicable);

(j) the Company sells, transfers, leases or otherwise disposes of all or any part (which has a material adverse effect in the Company's ability to carry out its obligations under the Concession Agreement) of its undertakings, properties or assets by a single transaction or a number of transactions (whether related or not and whether at the same time or over a period of time and other than in respect of the grant of security pursuant to the Concession Agreement without the prior consent of the District (such consent not to be unreasonably withheld or delayed);

(k) the Company fails to provide the Handover Security required by the time specified in the Concession Agreement and the District is unable to cover the amount of the Handover Security by deductions from the Service Payment transferred into a handover escrow account as set out in the Concession Agreement;

(l) the non-compliance with any share transfer restrictions or any change in control limitation as contemplated by the Concession Agreement;

(m) the Company fails to comply in any material respect with any Specified Requirement or any Applicable Requirement;

(n) the Company fails to comply with any material requirement of the provisions of the Concession Agreement relating to insurance;

(o) any of the representations or warranties referred to in the Concession Agreement prove to have been materially untrue or incorrect when made to the extent that such breach of representation or warranty has a material adverse effect on the Eagle P3 Project as a whole or the interests of the District;

(p) any breach by the Company of its obligations under the Concession Agreement;

(q) any material breach by the Company of its obligations in respect of subcontracting, including the Specified Requirements relating to disadvantaged and small business enterprises programs;

(r) any of the Project Agreements other than the Concession Agreement:

(i) ceases to be in full force and effect or no longer constitutes the valid, binding and enforceable obligations of the Parties thereto other than the District (other than due to the termination of such Project Agreement, or an involuntary bankruptcy event or a voluntary bankruptcy event, in each case as defined in such Project Agreement, which shall be governed by provisions the Concession Agreement described in clause (e) and clause (f) above; or

(ii) is materially amended, varied or departed from (other than in accordance with the Concession Agreement),

(s) and this materially adversely affects the ability of the Company to perform its obligations under the Concession Agreement, or any right of the District under the Concession Agreement or its ability to enforce any such right, or to perform its obligations under the Concession Agreement;

(t) the Availability Ratio of any Commuter Rail Service (treating the Gold Line Service and the Northwest Rail Electrified Segment Service as a single Commuter Rail Service for purposes of clause (ii) hereof) is less than (i) 80% in two or more months between the applicable Revenue Service Commencement Date and the applicable Final Completion Date or (ii) 85% in six or more months of any eight-month period; *provided* in each case (i) and (ii), that a single, continuous event lasting no more than thirty (30) days extends across two calendar months and directly causing the Availability Ratio in both such months to fall below 80% or 85%, as applicable, shall be deemed to have resulted in an Availability Ratio less than 80% or 85%, as applicable, in the first such month only;

(u) the Performance Deduction Percentage exceeds 3% of the Adjustable Base Service Payment for the relevant month in six or more months of any eight-month period; and

(v) without limitation to clauses (a) to (t) above, any breach of any other material obligations of the Company under the Concession Agreement (but only to the extent such breach (i) is not the subject of Performance Deductions, (ii) has not resulted in any impact on the Availability Ratio and (iii) is not otherwise the subject of penalties or deductions under the Concession Agreement) or any written repudiation of the Concession Agreement by the Company.

"Concession Equipment" means all equipment and software used in or forming part of the Concessionaire-operated Components, including:

(a) all equipment and software set out in the asset registers in accordance with the Concession Agreement;

(b) all equipment (including test equipment) and tools used in the operation and maintenance of the Concessionaire-operated Components;

(c) all cables, expendable parts, spare parts and materials; and

(d) all Contract Data produced in connection with the design, construction, operation and/or maintenance of the Concessionaire-operated Components.

"Construction Payments" means (a) following the Early Work Effective Date until the Phase 1 Effective Date, the Early Work Construction Payments and (b) following the Phase 1 Effective Date, the Phase 1 Construction Payments together with, following the Phase 2 Effective Date, the Phase 2 Construction Payments and the Phase 2 Financing Cost Payments.

"Construction Payment Sub-Account" means the Construction Payment Sub-Account of the Borrower Construction Account created by and designated as such in the Lockbox Account Agreement and as described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Borrower Construction Account*."

"Construction Security" or "Concession Agreement Construction Security" means a bond substantially in the form attached as Appendix G to Volume I of the RFP in favor of the District (or in favor of the District, the Company, the Agent Bank and the Design Build Contractor as multiple obligees) or a letter of credit or other surety (in such form as may be reasonably required by the District) in a penal amount equal to not less than the greater of (a) 50% of the total Earned Value of the Work scheduled under the Original Baseline Schedule (or, as the case may be, Revised Baseline Schedule) to be performed under the Design Build Contract and any other contracts entered into by the Company for construction, erection, repair, maintenance or improvement of any building, road, viaduct, tunnel, excavation or other public works in any calendar year in which such contract is performed and (b) 5% of the total Earned Value for all Work not yet performed under the Design Build Contract and any other contracts entered into by the Company for construction, erection, repair, maintenance or improvement of any building, road, viaduct, tunnel, excavation or other public works in any calendar year in which such contract is performed, in each case (i) calculated as of the first day of the calendar year, (ii) not including the Phase 1 Work prior to the Phase 1 Effective Date or the Phase 2 Work prior to the Phase 2 Effective Date and (iii) in compliance with Section 38-26-106, Colorado Revised Statutes.

"Consumer Price Index" or *"CPI"* means CPI-U, US City Average, All Items Not Seasonally Adjusted, as reported by the Bureau of Labor Statistics of the United States Department of Labor, or if publication of such index by the Bureau of Labor Statistics is discontinued, an index with similar characteristics specified as a replacement to CPI by the Financial Panel and the Technical Panel (acting jointly) as described in the Concession Agreement.

"Continuing Disclosure Undertaking" means that certain Continuing Disclosure Undertaking to be entered into among the Trustee, the Company and the District pursuant to the Rule.

"Contract Data" means:

(a) with respect to the Concession Agreement, all of the Concessionaire Design Submittals, any drawings not included in the foregoing, the O&M Submittals and other Work Products to be prepared by the Concessionaire pursuant to the Concession Agreement and submitted to the District and any Project Third Party, as the case may be, in accordance with the Contract Data Requirements List;

(b) with respect to the Design Build Contract, all of the Contractor Design Submittals, any drawings not included in the foregoing, and other Work Products to be prepared by the Design Build Contractor pursuant to the Design Build Contract and submitted to the District and any Project Third Party, as the case may be, in accordance with the Contract Data Requirements List; or

(c) with respect to the O&M Contract, all of the O&M Submittals and other Work Products to be prepared by the O&M Contractor pursuant to the O&M Contract and submitted to the District and any Project Third Party, as the case may be, in accordance with the Contract Data Requirements List.

"Contract Data Requirements List" or *"CDRL"* means the requirements for the submission of the Contract Data and provisions relating to procedures and time periods for the review and agreement of Contract Data by the

District and the Project Third Parties set out in the Concession Agreement, as modified from time to time between the Company and the District in accordance with the Concession Agreement.

"Contract Documents" means:

(a) with respect to the Concession Agreement, collectively, the Concession Agreement; each alternative technical concept previously approved by the District in accordance with the RFP and subsequently incorporated in the Concessionaire's Proposal; the attachments to the Concession Agreement, other than the Concessionaire's Proposal (but excluding portions relating to alternative technical concepts which are separately and directly incorporated into the Concession Agreement or any other attachment to the Concession Agreement) and any Third Party Agreement (but excluding such portions which are separately and directly incorporated in the Concession Agreement or any other attachment to the Concession Agreement); the Third Party Agreements (other than such portions which are separately and directly incorporated in the Concession Agreement or any other attachment to the Concession Agreement) incorporated into the Concession Agreement by way of attachment; and the Concessionaire's Proposal (excluding portions relating to alternative technical concepts which are separately and directly incorporated into the Concession Agreement or any other attachment to the Concession Agreement);

(b) with respect to the Design Build Contract, collectively, the Design Build Contract, the Concession Agreement, the Design Documents, all Scope Change Orders, the requirements with respect to project and construction management set forth in the Concession Agreement, the Hazardous and Contaminated Substance Health and Safety Plan, the Voluntary Clean-Up Application and Materials Management Plan, the Quality Management Plan, the Project Management Plan, the Hazardous Materials Management Plan, the Sustainability Plan, the Safety and Security Management Plan, the Traffic Management Plan, the EMC Control Plan, the Corrosion Control Plan and the Construction Mitigation Plan, and all other requirements, plans and procedures that are to be prepared and/or complied with by the Company under the Scope Document pursuant to the Design Build Contract, as described in "PRINCIPAL PROJECT AGREEMENTS–Design Build Contract–*Performance Standards*" herein;

(c) with respect to the O&M Contract, collectively, the O&M Contract, the Concession Agreement, the Third Party Agreements, and all O&M Submittals.

"Contractor" means, with respect to the Interface Agreement, either the O&M Contractor or the Design Build Contractor, as the case may be.

"Contractor Design Submittals" means each drawing, design, specification, calculation, report, plan, procedure and other items and other information to be submitted in connection with the design of the Commuter Rail Projects and/or the Rolling Stock, including the Final Design Submittals, in accordance with the Scope Document, the Contract Data Requirements List and the Third Party Agreements.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, and *"Controlling"* and *"Controlled by"* have meanings correlative thereto.

"Cost of Issuance" includes the following:

(a) Expenses necessary or incident to determining the feasibility or practicability of the issuance and sale of the Bonds, the fees and expenses of management consultants for making studies, surveys and estimates of costs and revenues and other estimates;

(b) Expenses of administration, supervision and inspection properly chargeable to the issuance and sale of the Bonds, legal expenses and fees of the Issuer or the Company in connection with the issuance and sale of the Bonds, legal expenses and fees, fees and expenses of the Trustee, fees and expenses of financial advisors or brokers in arranging for the sale or placement of the Bonds, financing charges, remarketing fees, cost of audits, cost of preparing, issuing and selling the Bonds, abstracts and reports on titles to real estate, title insurance premiums, recording fees and taxes and all other items of expense, including those of the District or the Company not elsewhere specified in the Indenture incident to the issuance and sale of the Bonds;

(c) Any other cost relating to the issuance and sale of the Bonds; and

(d) Reimbursement to the Company for any costs described above paid by it, whether before or after the execution of the Indenture or any Supplemental Indenture.

"Covered Financings" mean the borrowings of local government that are covered under Amendment 61, specifically any loan, whether or not it lasts more than one year; may default; is subject to annual appropriation or discretion; is called a certificate of participation, lease-purchase, lease-back, emergency, contingency, property lien, special fund, dedicated revenue bond, or any other name; or offers any other excuse, exception, or form.

"CP Notes" mean the Subordinate Lien Sales Tax Revenue Commercial Paper Notes, Series 2001A issued by the District.

"Credit Facility" means any letter or line of credit, policy of bond insurance, surety bond or guarantee or similar instrument (other than a Reserve Fund Insurance Policy) issued by a financial, insurance or other institution and which specifically provides security and/or liquidity in respect of Securities payable from all or a portion of the RTD Sales Tax Revenues.

"Credit Facility Obligations" means repayment or other obligations incurred by the District in respect of draws or other payments or disbursements made under a Credit Facility.

"CRMF Site" means the land, spaces and surfaces of the CRMF as described in the Concession Agreement, as modified or supplemented in accordance with the Concession Agreement.

"Cure Period" means the period ending 150 days after:

(a) where the District receives a Lender Notice, the date of receipt of that Lender Notice by the District; or

(b) otherwise, the later of:

(i) receipt by the Agent of an RTD Notice; and

(ii) the expiry of any applicable cure period for a Concessionaire Termination Event set out in Section 41.2 (Consequences of a Concessionaire Termination Event) of the Concession Agreement,

provided that, notwithstanding subclauses (a) and (b) above:

(A) if the Agent is prohibited by any court order or bankruptcy or insolvency proceedings from curing the unperformed obligations of the Company which are the subject of the RTD Notice or Lender Notice, as the case may be, or from commencing or prosecuting foreclosure proceedings, the Cure Period shall be extended by the period of such prohibition; and

(B) further notwithstanding proviso (A) above, the Cure Period shall end on the earlier of:

(I) any Step-in Date or Substitution Effective Date; and

(II) the End Date under the Concession Agreement.

"Current Baseline Schedule" means the Original Baseline Schedule or the most recently approved Revised Baseline Schedule including executed cost and schedule changes from approved Changes and Work Orders.

"Debt Service Fund" means the Debt Service Fund established and created pursuant to the Indenture as described in "SECURITY FOR THE BONDS—Indenture—Funds and Accounts to be Established Under the Indenture" herein.

"Debt Service Payment Date" means each date on which principal of and interest on the Bonds is due and includes, but is not limited to, the maturity date of any Bond, each Interest Payment Date and the date of any mandatory redemption payment on any Bond.

"Debt Service Reserve Account" means the Debt Service Reserve Account established and created pursuant to the Indenture and as described in "SECURITY FOR THE BONDS–Indenture" herein.

"Debt Service Reserve Requirement" means the projected amount of principal and interest on the Bonds, in each case, payable during the six (6) month period commencing on such date and thereafter on each Transfer Date up to an amount equal to the projected amount of principal and interest on the Bonds, in each case, payable during the six (6) month period commencing on such Transfer Date as certified by the Company in the applicable Revenue Account Transfer Certificate.

"Defeasance Escrow Account" means the Defeasance Escrow Account created pursuant to the Indenture, as described in APPENDIX G–"SUMMARY OF CERTAIN PROVISIONS IN THE INDENTURE" herein.

"Defeasance Securities" means, to the extent permitted by law: (a) cash, (b) non-callable direct obligations of the United States of America ("Treasuries"), (c) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (d) pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, (e) securities eligible for "AAA" defeasance under then existing criteria of S&P, or (f) any combination thereof used to effect defeasance of the Bonds.

"Demand for Arbitration" means the service of demand for arbitration, which specifies the nature of the controversy and the nature and extent of damages sought.

"Denver FasTracks Plan" means the FasTracks Plan.

"Denver Union Station" or *"DUS"* means the station known as "Denver Union Station," which is to serve as a transportation hub for light rail, bus and commuter rail services under the FasTracks Plan.

"Deposit Agreement Banks" mean the designated financial institutions where the Account Bank deposits sums under the Deposit Agreements.

"Deposit Agreements" mean the separate Investment Agreements with the Account Bank acting as depositor under the Deposit Agreement.

"Design Build Contract" means the turnkey, lump-sum, fixed price design build contract for the delivery of all the Work, dated July 9, 2010, as amended on July 22, 2010, and as further amended, supplemented or otherwise modified from time to time, between the Company and the Design Build Contractor.

"Design Build Contractor" means Denver Transit Systems, LLC, a Delaware limited liability company and its successors, assigns and replacements under the Design Build Contract.

"Design Build Contractor Direct Agreement" means the Direct Agreement entered into among the Trustee, the Design Build Contractor and the Company.

"Design Build Guarantors" means Fluor Corporation, Balfour Beatty, LLC and Balfour Beatty plc.

"Design Build Guaranty" means the guarantees executed and delivered by the Design Build Guarantors in favor of the Borrower substantially in the form of Exhibit L-1 or Exhibit L-2 of the Design Build Contract.

"Design Build Period" means the period commencing on the earlier of the Early Work Effective Date and the Phase 1 Effective Date and ending on the date immediately preceding the last Final Completion Date to occur.

"Design Build Subcontractor" means Denver Transit Constructors, LLC, a Delaware limited liability company, or any permitted replacement thereof or successor thereto.

"Design, Construction and Rolling Stock Requirements" means the mandatory requirements and provisions set out in Article 7 of the Concession Agreement, which defines the technical scope of the Work for the Eagle P3 Project during the Design Build Period, subject to any waivers and variations from specific requirements that the District may grant in its sole discretion.

"Design Documents" means all plans, drawings, designs, specifications, reports, specifications and other such design-related information for the Project, including, but not limited to, design standards, design or durability reports, models, samples and calculations, including all Concessionaire Design Submittals.

"Designated Credit Agreement" means any agreement (excluding any agreement for the provision of Shareholder Loans or with any Equity Bridge Lenders but including Subordinated Debt) executed by the Company and any Lender under or pursuant to which any financing is or is to be provided to the Company in relation to the Eagle P3 Project (whether by means of loans, issuance of bonds or other debt instruments, the provision of letters of credit, financial insurance, guarantees, leasehold mortgages or any other means) and any hedging agreements and, in each case, any security agreements in connection therewith, in each case which is verified in writing by the District as a Designated Credit Agreement in accordance with the Concession Agreement and is described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"Designated Payment Office of the Trustee" means the Corporate Trust Office of The Bank of New York Mellon Trust Company, N.A., whose office is located at 1775 Sherman, Suite 2775, Denver, CO 80203.

"Designated Senior Representative" means, in the case of the District, the General Manager, and in the case of the Company, the chief executive officer (or equivalent) of the Company.

"Direct Agreements" means the Lenders' Direct Agreement, the Design Build Contractor Direct Agreement and the O&M Contractor Direct Agreement.

"Disbursement Agent" means the Senior RTD Debt Trustee, in its capacity as disbursement agent with respect to the required payments of the TABOR Portion and any Additional TABOR Portion under the Concession Agreement.

"Discriminatory Change in Law" means:

(a) a Change in Law, the terms of which apply to:

(i) the Eagle P3 Project and either (A) do not apply to other similar private sector surface transportation infrastructure projects in the United States of America or (B) are not of general application;

(ii) (A) with respect to the Concession Agreement, the Company or any applicable Project Contractor; (B) with respect to the Design Build Contract, the Company, the Design Build Contractor or the Rolling Stock Supplier; or (C) with respect to the O&M Contract, the Company or the O&M Contractor, and, in each case, do not apply to other Persons; and/or

(iii) private sector commuter rail operators or private sector commuter rail construction contractors in the State of Colorado and do not apply to other Persons;

(b) a determination by the United States Railroad Retirement Board, an independent agency in the executive branch of the United States federal government, or the Surface Transportation Board, an agency of the United States Department of Transportation, that any employee of the Company or the O&M Contractor (other than any Dispatchers) constitutes an "employee" for purposes of either the Railroad Retirement Tax Act, 45 U.S.C. §231 et seq. or the Railroad Unemployment Insurance Act, 45 U.S.C. §351 et seq. (including (i) each such Law as it may be amended, modified or supplemented from time to time, (ii) all regulations and rules pertaining to or promulgated pursuant to each such Law, (iii) the successor to each Law resulting from recodification or similar reorganizing of Laws and (iv) all future Laws pertaining to the same or similar subject matter); *provided* that the Company has complied with the O&M Specifications; and

(c) any amendments, alterations, modifications, additions or replacements to or of the Railroad Safety Improvement Act of 2008 with respect to the provisions set forth at 49 USC 20157 and in regulations promulgated thereunder in Positive Train Control Systems, 75 Fed. Reg. 2598 (Jan. 15, 2010) (to be codified at 49 C.F.R. Parts 229, 234, 235 and 236), compliance with which results in additional costs with respect to the implementation of positive train control systems.

"Dispatcher" means any individual whose employment responsibilities include, in whole or in part, "dispatching," which means the dispatch or direction of movement of commuter rail, freight rail or other carrier by railroad services subject to the jurisdiction of the Surface Transportation Board under Part A of Subtitle IV of Title 49 U.S.C.

"Dispute" means any dispute, difference or disagreement between the Parties arising under, out of or in connection with or relating to the Concession Agreement, including any question regarding its existence, validity or termination.

"Dispute Resolution Panel" means the Financial Panel or the Technical Panel and is described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"Dispute Resolution Procedures" means the procedure for the resolution of Disputes set out in the Concession Agreement.

"Distribution" means:

(a) whether in cash or in kind, any (i) dividend or other distribution in respect of share capital; (ii) reduction of capital, redemption or purchase of shares; (iii) payments of any Shareholder Loans (whether of principal, interest, breakage costs or otherwise); (iv) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was neither in the ordinary course of business nor on reasonable commercial terms (*provided* that payments under a Project Agreement shall not be included in the foregoing); and (v) the receipt of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms (*provided* that payments under a Project Agreement shall not be included in the foregoing); or

(b) the amount of any release of any contingent funding liabilities to Lenders or the Equity Bridge Lenders.

"Distribution Account" means the Distribution Account created by and designated as such in the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Distribution Account*" herein.

"Distribution Account Release Certificate" means the certificate substantially in the form of the Distribution Account Release Certificate attached to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Distribution Account*" herein.

"Distribution Date" means the actual date of payment to the Company from the Distribution Account pursuant to the Lockbox Account Agreement.

"District" or *"RTD"* means the Regional Transportation District in its capacity as the unit of government with responsibility for developing, maintaining and operating a mass transportation system for the Denver metropolitan area and as party to the Concession Agreement.

"District Sales Tax Area" means the geographic area comprising the District as described in the Act within which the District is authorized by Law to levy the Sales Tax.

"Documents" mean all documents or other receipts of the Company covering, evidencing or representing Inventory or Equipment, as defined in the Security Agreement.

"Dollars" means lawful money of the United States of America.

"DTC" means The Depository Trust Company.

"DTH" means Denver Transit Holdings, LLC, a Delaware limited liability company.

"DUS Infrastructure" means the commuter rail station and associated infrastructure to be constructed by the DUS Infrastructure Contractor pursuant to the DUS Infrastructure Agreement.

"DUS Infrastructure Agreement" means the design build agreement dated April 30, 2009 between the Denver Union Station Project Authority and the DUS Infrastructure Contractor for the design and/or construction of the DUS Infrastructure.

"DUS Infrastructure Contractor" means Kiewit Western Co., a Delaware corporation.

"DUSPA" means Denver Union Station Project Authority, a Colorado not-for-profit corporation.

"DUSPA Bond" means the Subordinate Lien Sales Tax Revenue Bond, Series 2010 Bond issued by the Issuer for the purpose of financing the DUS Project.

"DUSPA/RTD Funding Agreement" means the DUSPA/RTD Funding Agreement entered into between DUSPA and the District.

"DUS Rail Segment" means the heavy and commuter rail segment of Denver Union Station comprising the DUS Rail Segment Site, the DUS Infrastructure and the DUS Systems.

"DUS Rail Segment Site" means the land, spaces and surfaces on which the DUS Infrastructure is to be constructed, as described in the Concession Agreement

"DUS Systems" means the communications systems, signaling system and traction electrification system (and all Concession Equipment forming part thereof) to be installed as part of the DUS Rail Segment.

"DUS to CRMF" means the commuter rail line between the DUS Rail Segment and the CRMF.

"Eagle P3 Payment Account" means the segregated account held by the Senior RTD Debt Trustee created pursuant to the Trustee's Instructions for the payment of the TABOR Portion.

"Eagle P3 Project" means the full project being provided by the Company to the District under the Concession Agreement, including: (a) the design and construction of the Commuter Rail Projects and the Commuter Rail Maintenance Facility, (b) the procurement and installation of the DUS Systems, (c) the procurement of the Rolling Stock, (d) the operation of the Commuter Rail Services and the operation and maintenance of the Commuter Rail Network and the Rolling Stock and (e) from the Actual DUS Access Date, the dispatch of all Heavy Rail Movements.

"Early Work" means

(a) with respect to the Concession Agreement, the performance of all Work required for, carried out or executed in or in relation to or in connection with relocations to be performed by the Company in accordance with the plans set forth in the Concession Agreement, such Work to be completed in accordance with such plans and the relevant Railroad Agreements and as described in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement"; or

(b) with respect to the Design Build Contract, the performance of all Work in connection with relocations to be performed in accordance with the Scope Document, including the plans set forth in any appendix of the Scope Document.

"Early Work Construction Payment" means the amount to be paid by the District following the Early Work Effective Date and prior to the Phase 1 Effective Date.

"Early Work Effective Date" means the date on which the following conditions are satisfied or waived in accordance with the Concession Agreement:

(a) the delivery by the District to the Company of the Early Work Notice to Proceed at any time prior to the Phase 1 Effective Date;

(b) no later than 14 days prior to issuing the Early Work Notice to Proceed, the District will submit a written request to the Company to deliver (i) the Construction Security with respect to the Early Work only and (ii) to the extent not previously provided, a copy of the Design Build Contract executed by the relevant parties thereto in form and substance acceptable to the District in accordance with the Concession Agreement, certified by the Company as being a true, complete and accurate copy, together with the applicable corporate documents otherwise required in accordance with the Concession Agreement with respect to the Design Build Contract; and

(c) the Company will deliver to the District such Construction Security with respect to the Early Work only and, to the extent not previously provided, a copy of the Design Build Contract and the related corporate documents within 10 days after delivery of the District's request.

"Early Work Notice to Proceed" means a written notice in which the District notifies the Company that the Early Work Effective Date has occurred.

"Earned Value" means:

(a) with respect to the Concession Agreement, the Company's budgeted cost of work performed as set forth in the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule) and the Schedule of Values in the Concession Agreement and as described in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement–*Construction and Procurement*"; or

(b) with respect to the Design Build Contract, the Design Build Contractor's budgeted cost of work performed as set forth in the payment and value schedule attached to the Design Build Contract.

"East Corridor" means the commuter rail line between the DUS Rail Segment and Denver International Airport, as described in the Concessionaire's Proposal and as shown on the map on page ___ of this Official Statement.

"East Corridor Facilities" means the stations and park-n-ride facilities on the East Corridor, as described in the Concessionaire's Proposal.

"East Corridor Project" means the East Corridor Facilities, the Concession Equipment forming part of the East Corridor and the other Work to be designed, constructed, operated and maintained on the East Corridor Site as part of the East Corridor pursuant to the Concession Agreement, Design Build Contract and the O&M Contract.

"East Corridor Service" means the commuter rail service to be provided by the Company in accordance with the requirements on the East Corridor as set forth in the Concession Agreement.

"East Corridor Site" means the land, spaces and surfaces with respect to the East Corridor as described the Concession Agreement, as modified or supplemented pursuant to the Concession Agreement and Design Build Contract.

"EMMA" means the MSRB's Electronic Municipal Market Access (EMMA) system available on the Internet at http://emma.msrb.org and is the MSRB's required method of filing.

"EMU" means Electric Multiple Unit.

"Encumbrance" means any mortgage or deed of trust, lien, pledge, hypothecation, assignment, deposit arrangement, security interest, charge, preference, easement or encumbrance or any other agreement or arrangement having substantially the same economic effect.

"Environment" means:

(a) with respect to the Financing Documents, soil, land, surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life or habitat and any other environmental medium or natural resource; or

(b) with respect to the Material Project Contracts, the physical conditions which exist within the area which will be affected by a proposed project, including land, air (including that within the Concessionaire-operated Components or buildings or natural or man-made structures), water (including territorial, coastal and inland waters and groundwater and drain and sewer water), minerals, flora, fauna, noise and objects of historic or aesthetic significance.

"Environmental Clean-up Work" means any work relating to the removal, remediation or clean-up of any Environmental Condition by the Company.

"Environmental Condition" means the presence, on, in or under any Site, of hazardous material (or environmental media contaminated with hazardous material) and/or the presence on, in or under any adjacent off-Site area of hazardous materials (or environmental media contaminated with hazardous material) that shall have migrated to or from the Site at concentration levels:

(a) at which a Relevant Authority requires investigation, removal, remedial action or off-site disposal or management of such hazardous material as a hazardous or solid waste;

(b) which exceed Colorado Basic Standards for groundwater or residential risk-based soil or indoor air screening levels or screening levels protective of groundwater established or adopted by the Colorado Department of Public Health and Environment, the Colorado Department of Labor and Employment Division of Oil and Public Safety, or the United States Environmental Protection Agency, or exceed naturally-occurring or background concentrations, if such levels are greater than such standards or residential risk-based screening levels or screening levels protective of groundwater; or

(c) which would require additional personnel protective equipment, medical monitoring, off-site disposal or training in excess of two hours to comply with applicable Law governing the management, remediation, or disposal of such hazardous material.

"Environmental Law" means any Law that addresses, is related to or is otherwise concerned with the Environment or environmental, health or safety issues, including any Law relating to any emissions, releases, threatened releases or discharges of Hazardous Materials into the Environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling, labeling, clean-up or

control of Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.) ("CERCLA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901 et seq.) ("RCRA") and the Clean Water Act (33 U.S.C. Section 1251 et seq.) or any foreign, state or local equivalent thereof.

"Equipment" means all equipment of the Company (including any embedded software), all spare parts and related supplies, including any of the foregoing obtained by the Company in exchange for any such equipment, spare parts and related supplies.

"Equity Bridge Lenders" means the credit or financial institutions which are from time to time parties to or have rights under any agreement pursuant to which they agree to provide finance facilities to be repaid from the proceeds of Equity Commitments or Shareholder Loans, the repayment of which is otherwise guaranteed by the Shareholders.

"Equity Commitments" means the unconditional commitments by the Initial Shareholders to subscribe for share capital in the Company or to provide Shareholder Loans to the Company.

"Equity Contribution" means, with respect to each Sponsor, the capital contributions to the Company made by such Sponsor pursuant to the Equity Contribution Agreement.

"Equity Contribution Agreement" means that certain Equity Contribution Agreement by and among the Sponsors, the Company and the Trustee.

"Equity Contribution Sub-Account" means the Equity Contribution Sub-Account created and established pursuant to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Borrower Construction Account*."

"Equity IRR" means, as of any date of determination, where used for the purpose of calculating a refinancing gain in accordance with the Concession Agreement, any adjustment to any Service Payment or the RTD Default Amount in the case of any termination, in each case, in accordance with the Concession Agreement and in respect of the Shareholders, the projected nominal rate of return on the Equity Commitment and any Shareholder Loans or other similar finance provided by the Shareholders, calculated as of such date by reference to the Financial Model over the full term of the Concession Agreement, having regard to Distributions made and projected to be made.

"Equity Letter of Credit" means each on-demand letter of credit issued by an Acceptable Bank pursuant to the Equity Contribution Agreement.

"Equity Market Value" means

(a) in the case of a termination for failure to deliver the Full Phase 1 Notice to Proceed by December 31, 2011, or termination by the District if the Company has given a notice of the expenditures on Work exceeding the amount that the Company is allowed to spend on Work prior to the delivery of the Full Phase 1 Notice to proceed, an amount equal to the sum of (i) the amount of the drawn equity capital and payments in respect of any Shareholder Loans as of the Termination Date, plus (ii) an annual rate of return of 8% (A) on fixed equity or Shareholder Loan commitments made at Financial Close in accordance with the Financial Model from the date of Financial Close until the earlier of the Termination Date or the date on which such equity and/or Shareholder Loans are contributed and (B) if any amount of such equity or Shareholder Loan is contributed prior to the Termination Date, on such amount from the date of its contribution until the Termination Date, plus (iii) a rate of return equal to the Base Case Equity IRR on any unpaid amount of the sum of (i) and (ii) above for the period from the Termination Date to the date on which the District has paid the full amount of the sum of (i), (ii) and (iii); and

(b) in the case of a termination as a result of an RTD Termination Event, the net present value of the anticipated future nominal Distributions (post-tax on the part of the Company but pre-tax on the part of the Shareholders) in respect of drawn share capital and payments in respect of any Shareholder Loans as of the

Termination Date determined by an independent third party expert appraiser within ninety (90) days of the appointment by both parties of such expert appraiser.

"Equity Participants" mean Fluor and Macquarie, the owners of the membership interest in DTH.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto of similar import, together with the regulations thereunder, in each case as in effect from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to a pension plan.

"Event of Default" means

(a) with respect to the Financing Documents, as listed under "SECURITY FOR THE BONDS—Indenture—Events of Default under the Indenture" and "SECURITY FOR THE BONDS—Loan Agreement";

(b) with respect to the Concession Agreement, the Concession Termination Events and the RTD Termination Events;

(c) with respect to the Leasehold Mortgages, the occurrence of an Event of Default under the Loan Agreement, as described in "SECURITY FOR THE BONDS—Leasehold Mortgages";

(d) with respect to the Design Build Contract, as described under "PRINCIPAL PROJECT AGREEMENTS—Design Build Contract—*Termination Rights*" and APPENDIX E—"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT"; or

(e) with respect to the O&M Contract, as described under "PRINCIPAL PROJECT AGREEMENTS—Termination Rights" and APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT."

"Existing Facilities" means all fixtures, facilities and infrastructure existing on the CRMF Site, the East Corridor Site and, following the Phase 2 Effective Date, the Gold Line Site and the Northwest Rail Electrified Segment Site on the date the District provides Vacant Possession to the Company, which fixtures, facilities and infrastructure have been retained and incorporated into the Commuter Rail Network in accordance with the Concession Agreement.

"Expiry Date" or *"Concession Expiry Date"* means December 31, 2044.

"Extensive Force Majeure Event" means, subject to the Concession Agreement, a Force Majeure Event that has occurred and either:

(a) the consequences thereof are continuing for a period of 180 consecutive days or more or have materially prevented or delayed a Party from performing a substantial proportion of its obligations under the Concession Agreement for a period of 180 days or more in aggregate within a period of 360 consecutive days; or

(b) The District has determined that the relevant Restoration Plan is unfeasible, in accordance with the Concession Agreement.

"FasTracks Bonds" mean the Sales Tax Revenue Bonds (FasTracks Project) issued by the District pursuant to the FasTracks Indenture.

"FasTracks Indenture" means an Indenture of Trust, dated as of October 1, 2006, as amended, between the District and The Bank of New York Mellon Trust Company, N.A., as trustee, together with an Indenture of Trust dated as of May 1, 2007, as amended, between the District and The Bank of New York Mellon Trust Company, N.A., as trustee.

"FasTracks Plan" means the public transportation expansion plan for the Denver metropolitan area in the State developed by the District, including the construction and operation of certain commuter rail lines, described in "THE PROJECT" and APPENDIX A–"THE REGIONAL TRANSPORTATION DISTRICT" herein.

"Federal Book-Entry Regulations" means (i) the United States Department of the Treasury's regulations governing "Securities" (as defined in 31 C.F.R. § 357.2) issued by the United States Treasury and maintained in the form of entries in the federal reserve banks' book-entry system known as the Treasury/Reserve Automated Debt Entry System (TRADES), as such regulations are set forth in 31 C.F.R. Part 357 and (ii) regulations analogous and substantially similar to the regulations described in clause (i) above governing any other automated book-entry system operated by the United States federal reserve banks in which securities issued by government sponsored enterprises are issued, recorded, transferred and maintained in book-entry form.

"Federal Tax Certificate" means, with respect to any issuance of Bonds under the Indenture, (a) one or more certificates or agreements that set forth the Issuer's or the Company's expectations regarding the investment and use of proceeds of any series of the Bonds and other matters relating to Bond Counsel's opinion regarding the federal and State income tax treatment of interest on such Bonds, including any instructions delivered by Bond Counsel in connection with any such certificate or agreement; and (b) any amendment or modification of any such certificate or agreement that is accompanied by an opinion of Bond Counsel stating that the amendment or modification will not adversely affect the exclusion of interest on such bonds from gross income for federal and State income tax purposes.

"Federal Transit Program" means the federal transit program created by Congress, most recently under the SAFETEA-LU.

"FFGA" means full funding grant agreements.

"Final Acceptance" means the issuance of the Revenue Service Commencement Certificate for the East Corridor Project.

"Final Completion" means, in respect of each Commuter Rail Project and associated Commuter Rail Service, the satisfaction of the Final Completion Requirements for such Commuter Rail Project and associated Commuter Rail Service in accordance with the Concession Agreement and the Design Build Contract.

"Final Completion Certificate" means the Final Completion Certificate issued by the Independent Engineer pursuant to the Concession Agreement certifying that the Final Completion Date of a Commuter Rail Project has occurred.

"Final Completion Date" means, in respect of each Commuter Rail Project and associated Commuter Rail Service, the date on which Final Completion of such Commuter Rail Project and associated Commuter Rail Service occurs, as evidenced by the issuance of the Final Completion Certificate for such Commuter Rail Project and associated Commuter Rail Service.

"Final Completion Deadline Date" means the date falling twenty-four (24) months (or fifteen (15) months for the purposes of the Design Build Contract or the O&M Contract) after the last Revenue Service Commencement Date, as such Final Completion Deadline Date may be amended in accordance with the terms of the Concession Agreement (or the Design Build Contract for purposes of the Design Build Contract or the O&M Contract for the purposes of the O&M Contract).

"Final Completion Requirements" mean the following requirements:

(a) the relevant Revenue Service Commencement Certificate has been issued;

(b) the Company has demonstrated that the Availability Ratio on such Commuter Rail Service is an average of at least 94% for a period of any six consecutive calendar months commencing after the Revenue Service Commencement Date for such Commuter Rail Service and ending prior to the Final Completion Deadline Date;

(c) the Availability Ratio for such Commuter Rail Service has not fallen below 80% in more than one calendar month (or, if a single, continuous event lasting no more than thirty (30) days extends across two calendar months and directly causes the Availability Ratio in both such months to fall below 80%, two calendar months) following (and including) the calendar month in which the Revenue Service Commencement Date occurred and the last calendar month of the six calendar month period referred to in clause (b) above;

(d) all Contract Data relating to the operation and maintenance of such Commuter Rail Project and Commuter Rail Service has been submitted to or approved by, as the case may be, the District and the Project Third Parties (as applicable) in accordance with the Contract Data Requirements List;

(e) certain system performance demonstration progress reports required to be provided by the Company to the District in accordance with the Concession Agreement for such Commuter Rail Service have been completed by the Company;

(f) the System Testing and Commissioning Plan – Final Revision (referred to as such in the Concession Agreement) has been submitted to and accepted by the District;

(g) all of the Punch List Items set out in the schedule to the Revenue Service Commencement Certificate for such Commuter Rail Project shall have been carried out;

(h) all demobilization from the relevant Sites is complete (including removal of Temporary Works and equipment used in the performance of the Work and not required for the operation of such Commuter Rail Project);

(i) if the Phase 2 Effective Date does not occur on or before the Phase 2 Condition Precedent Satisfaction Date, with respect to the Final Completion Certificate for the East Corridor Project, the Company shall have delivered all Final Design Submittals to the District; and

(j) with respect to the last Final Completion Certificate only,

(i) the Company has submitted the last Monthly Progress Schedule to the District;

(ii) the Company has certified to the District in writing (and provided such documentary evidence as the District may reasonably require) that (A) no amounts owing to the Design Build Contractor, the Rolling Stock Supplier and any of their respective Subcontractors remains unpaid (except disputed amounts for which the Company has established adequate reserves in accordance with GAAP) and (B) final settlement of the Design Build Contract has occurred in accordance with Section 38-26-107(1) et seq., Colorado Revised Statutes; and

(iii) all conditions to the return of the Construction Security have been met in accordance with Section 38-26-101 et seq., Colorado Revised Statutes, applicable Law and the terms of the Design Build Contract; and

(k) only with the Design Build Contract, the Independent Engineer has issued Final Completion Certification pursuant to the Concession Agreement.

"Final Design Submittals" means the 100% complete drawings, designs, specifications, calculations, reports, plans, procedures and other items and information evidencing the Final Project Design to be submitted by

the Concessionaire to, and approved (or deemed approved) by, the District and, as required, any relevant Project Third Parties.

"Final Project Design" means the 100% complete design of all elements of the Commuter Rail Projects, the CRMF, the Rolling Stock and the DUS Systems enabling the procurement, manufacturing and/or construction thereof (as evidenced by the Final Design Submittals).

"Final Proposal Due Date" means May 14, 2010.

"Financial Close" means the Closing Date.

"Financial Model" means the base case financial model provided by the Company and approved by the District forecasting the revenues and expenditures delivered by the Company on the Closing Date, as adjusted from time to time.

"Financial Panel" means the Financial Panel to which Disputes of a financial nature are referred in accordance with the Concession Agreement.

"Financial Products Agreement" means an interest rate swap, cap, collar, floor, other hedging agreement, arrangement or security, however denominated, entered into by the District with a provider with respect to the specific Securities or as otherwise permitted by Colorado Law and providing that any payments by the District thereunder are payable from a lien on all or a portion of the RTD Sales Tax Revenues and for the purpose of (a) reducing or otherwise managing the District's risk of interest rate changes or (b) effectively converting the District's interest rate exposure, in whole or in part, from a fixed rate exposure to a variable rate exposure, or from a variable rate exposure to a fixed rate exposure.

"Financial Products Payments" means payments periodically required to be paid to a provider by the District pursuant to a Financial Products Agreement, but specifically excluding Financial Products Termination Payments.

"Financial Products Termination Payment" means any termination, settlement or similar payments required to be paid upon an early termination of the Financial Products Agreement as a result of any event of default or termination event thereunder.

"Financing Costs" means, in relation to any calendar month during the Design Build Period following the Phase 2 Effective Date:

(a) interest, commission, fees, premia and any other costs or expenses payable by the Company under the Designated Credit Agreements (including scheduled payments under any hedging agreement);

(b) amounts payable by the Company (other than with respect to principal) under the increased costs, taxes (including withholding taxes), market disruption, stamp duties and indemnities provisions of the Designated Credit Agreements; and

(c) any value added or other taxes payable by the Company (including under gross-up obligations) in respect of the above, in each case for such month.

"Financing Documents" means the Indenture, any Supplemental Indenture executed with respect to the Bonds, the Bonds, the Series 2010 Issuer Loan Agreement, any Additional Parity Bonds Issuer Loan Agreement (if executed), the Lockbox Account Agreement, the Direct Agreements, the Security Agreement, the Pledge Agreement, the Leasehold Mortgages, the Equity Contribution Agreement, the Continuing Disclosure Undertaking and any fee letter entered into by the Company with any of the Underwriters, the Trustee or the Issuer.

"Financing Parties" means the Persons, including financial insurers, financial institutions and bondholders which are from time to time parties to, or otherwise have rights under or pursuant to, any of the Designated Credit

Agreements and/or who provide a financing facility or facilities (including any hedging arrangements, any financial insurance policies, lease financing or tax benefit monetization financing) to the Company in accordance with such Designated Credit Agreements, and any trustee or agent acting on their behalf.

"Fiscal Year" means, with respect to the District and the Company, the twelve months commencing on January 1 of any calendar year and ending on December 31 of such calendar year, or any other 12-month period which the District or the Company designates as its respective fiscal year.

"Fitch" means Fitch Ratings, Inc. and any successor to its rating agency business.

"Fixtures" means all property exclusive of tenants' betterments which is so attached to the Commuter Rail Network or the Improvements as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

"Fluor" means Fluor Enterprises, Inc., a California corporation and subsidiary of Fluor Corporation.

"FM Termination Amount" means an amount payable by the District upon termination of the Concession Agreement as a result of an Extensive Force Majeure Event and is described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"FM Termination Event" means an Extensive Force Majeure Event that results in termination of the Concession Agreement.

"Force Majeure Event" means, as set forth in the Concession Agreement, that list of events or combination of events outside the reasonable control of the Affected Party, and which was not reasonably foreseeable by the Affected Party as at the date of the Concession Agreement, where such event materially and unavoidably prevents or delays the Affected Party from performing any of its obligations under the Concession Agreement and as described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"Forecast Renewal Work Schedule" means a schedule, prepared by O&M Contractor, providing an annual update of the original Renewal Work Budget and Schedule, showing elements of Renewal Work projected by the O&M Contractor to be performed and completed during the next five years and the O&M Contractor's best estimate of the cost thereof in then-current dollars, taking into account the then-current condition of the Concessionaire-operated Components, the remaining Term, the requirements of the O&M Contract and the handover and reinstatement requirements under the Concession Agreement.

"FRA" means the Federal Railroad Administration, an agency of the United States Department of Transportation.

"FTA" means the Federal Transit Administration, an agency of the United States Department of Transportation.

"Full Phase 1 Notice to Proceed" means a written notice issued by the District authorizing the Company to commence or to permit commencement of the Phase 1 Work without the restrictions contained in the Limited Phase 1 Notice to Proceed.

"GAAP" means such accepted accounting practice as conforms at the time to applicable generally accepted accounting principles in the United States of America, consistently applied; *provided*, *however*, that, in applying GAAP, non-cash adjustments shall not be made.

"General Manager" means any individual holding the position of general manager of the District or equivalent thereof from time to time.

"Gold Line" means the commuter rail line between Pecos Junction and Ward Road station in Wheat Ridge, Colorado, as described in the Concessionaire's Proposal.

"Gold Line Facilities" means the stations and park-n-ride facilities on the Gold Line and at the 41st and Fox Street and Pecos Street Stations, as described in the Concessionaire's Proposal.

"Gold Line Project" means the Gold Line Facilities, the Concession Equipment forming part of the Gold Line and the other Work (or with respect to the O&M Contract, the other Services) to be designed, constructed, operated and maintained as part of the Gold Line in accordance with the Project Requirements and otherwise pursuant to the Concession Agreement, the Design Build Contract and the O&M Contract.

"Gold Line Service" means the commuter rail service to be provided by the Company in accordance with the requirements of the Concession Agreement on the Gold Line and DUS to Pecos Junction.

"Gold Line Site" means the land, spaces and surfaces with respect to the Gold Line as described in the Concession Agreement, as modified or supplemented in accordance with the Concession Agreement and the Design Build Contract.

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence, foresight and operating practice which would reasonably and ordinarily be expected from a skilled and experienced contractor seeking in good faith to comply with its contractual obligations, complying with all Applicable Requirements and engaged in the same type of undertaking as the Company, the Project Contractors and/or the Subcontractors, as the case may be, and under the same or similar circumstances and conditions, and using information reasonably available at the relevant time.

"Governmental Approval" means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority, including sitting and operating permits and licenses and any of the foregoing under any applicable environmental law, that are required for the leasing, operation, improvement, tolling or maintenance of the Project.

"Governmental Authority" means any nation, state, sovereign or government, any federal, regional, state or local government or political subdivision thereof or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and having jurisdiction over the Person or matters in question.

"Governmental Decision" means any decision, determination, finding, consent, permit, license, action, assessment, statement, approval or certification by federal, state or local governmental entities (including agencies) relating to the Project, including (but not limited to) any pursuant to the National Environmental Policy Act, Section 4(f) of the Department of Transportation Act of 1966 (23 U.S.C. §138; 49 U.S.C. §303), the Endangered Species Act, Section 106 of the National Historic Preservation Act, the Clean Air Act or the Clean Water Act.

"Governmental Rule" means any statute, law, treaty, regulation, ordinance, rule, judgment, order, decree, permit, concession, grant, franchise, license, agreement, directive, requirement or other governmental restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing, in each case, having the force of law by any Governmental Authority, which is applicable to any person, whether in effect as of the date of Financial Close or thereafter.

"Guarantor" means, collectively or separately, Fluor Corporation, a Delaware corporation, Balfour Beatty, LLC, a Delaware limited liability company, and Balfour Beatty plc, a public limited company organized under the laws of England.

"Handover Amount" means an amount equal to the estimated cost of ensuring that the Concessionaire-operated Components comply in all material respects with the Handover and Reinstatement Work Requirements to be paid by the District in the event that it is agreed or determined in accordance with the Dispute Resolution Procedure that the Concessionaire-operated Components do not comply in all material respects with the Handover and Reinstatement Work Requirements, and is described in APPENDIX F–"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT" herein.

"Handover and Reinstatement Work Requirements" means the requirements that the Company, on the Expiry Date, hand over and, to the extent not already owned by the District, transfer ownership of title to the Concessionaire-operated Components free of all Encumbrances and free of charge to the District in a condition which: (i) could reasonably be expected of an equivalent commuter rail system which has been in existence and operated for a period equal to the period during which the relevant Commuter Rail Project has been operated and which has been maintained in accordance with the O&M Standards during that period and (ii) is capable of complying with the O&M Standards (as amended pursuant to the terms of the Concession Agreement) for a period of not less than three years from the Expiry Date, and is described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION CONTRACT" herein.

"Handover Security" means one or more on-demand letters of credit (in such form as may be reasonably required by the District) for the benefit of the District provided by the company in respect of the Reinstatement Work valid for a period of ninety (90) days after the Expiry Date in an aggregate amount that is 20% higher than the Reinstatement Amount to be delivered no later than seven days after agreement of the Reinstatement Proposal or determination in accordance with the Dispute Resolution Procedure, but in any event not earlier than 18 months before the Expiry Date, and is described in APPENDIX F–"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT" herein.

"Hazardous Materials" means, with respect to the Financing Documents, any material, substance or waste that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any mixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos or asbestos-containing materials and polychlorinated biphenyls.

"Heavy Rail Movements" means all movements of the Rolling Stock and any rolling stock owned by any Heavy Rail Operator on the DUS Rail Segment or, if required pursuant to the terms of the Concession Agreement, the Commuter Rail Network.

"Heavy Rail Operators" means the National Railroad Passenger Corporation (Amtrak), Burlington Northern Santa Fe Corporation (and its Affiliates) and Union Pacific Corporation (and its Affiliates) and any other operator of Rolling Stock licensed by the District from time to time to operate on the Commuter Rail Network.

"Improvements" means those certain site improvements relating to the District's commuter rail service known as the Eagle P3 Project located on the Commuter Rail Network.

"Incurred Cost Event" means (a) any Relief Event, Force Majeure Event or Discriminatory Change in Law as a result of which Incurred Costs are incurred by the Company and are due under the Concession Agreement, Design Build Contract and/or the O&M Contract, as the case may be or (b) any other event in relation to which the Company's costs are estimated or calculated by reference to the RTD Pricing Conditions in accordance with the terms of the Concession Agreement, Design Build Contract and/or the O&M Contract, as the case may be.

"Incurred Costs" means costs and expenses estimated or calculated in accordance with the RTD Pricing Conditions, and without double counting, which are incurred, estimated or calculated, as the case may be, in connection with an Incurred Cost Event.

"Indebtedness" means, with respect to any Person: (a) indebtedness of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, other than current trade payables incurred in the ordinary course of business, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (e) any lease which, in accordance with GAAP, is required to be capitalized on the balance sheet of such Person (and the amount of these obligations shall be the amount so capitalized), (f) all obligations, contingent or otherwise, of such Person under acceptances issued or created for the account of such Person, (g) all unconditional obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any capital stock or other equity interests of such Person or any warrants, rights or options to acquire such capital stock or other equity interests, (h) all net obligations of such Person pursuant to hedges, (i) all guarantee obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (h) above, and (j) all Indebtedness of the type referred to in clauses (a) through (h) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any lien on property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness.

"Indenture" means the Indenture of Trust between the Issuer and the Trustee.

"Indenture Account Collateral" means, subject to the Indenture, (a) all Indenture Project Accounts and funds deposited therein and moneys, funds, instruments, securities and all other property from time to time credited to such Indenture Project Accounts, (b) all "securities accounts" (within the meaning of Section 8-501 of the UCC), all deposit accounts and any and all other bank accounts, and (c) all "proceeds" (as defined under the UCC) of any or all of the foregoing that is subject to a security interest granted by the Company pursuant to the Security Agreement.

"Indenture Change In Law Contingency Account" means the Indenture Change In Law Contingency Account established and created pursuant to the Indenture and as described in "SECURITY FOR THE BONDS—Indenture" herein.

"Indenture Construction Account" means the Indenture Construction Account created by and designated as such under the Indenture and described in "ACCOUNTS AND FLOW OF FUNDS" herein.

"Indenture Construction Account Withdrawal Certificate" means the Indenture Construction Account Withdrawal Certificate substantially in the form attached to the Indenture and described in "ACCOUNTS AND FLOW OF FUNDS" herein.

"Indenture Project Accounts" means the Indenture Construction Account, the Debt Service Reserve Account, the Indenture Change In Law Contingency Account and any other sub-account of the foregoing accounts created from time to time pursuant to the Indenture.

"Indenture Securities Accounts" mean the Indenture Project Accounts.

"Indenture Securities Intermediary" means The Bank of New York Mellon Trust Company, N.A. in its capacity as securities intermediary on behalf of the Secured Parties under the Indenture.

"Independent Consultant" means any financial advisor, consultant or model auditor of national standing appointed by the Company for the purposes of providing the certifications required pursuant to the Indenture.

"Independent Engineer" means the independent engineer appointed by the District and the Company in accordance with the Concession Agreement, as replaced or succeeded from time to time.

"Initial Fluor Shareholder" means Fluor Enterprises, Inc., a California corporation.

"Initial Macquarie Shareholder" means Macquarie Holdings, LLC, a Delaware limited liability company.

"Initial Shareholder" means (a) any and each of the Initial Macquarie Shareholder and the Initial Fluor Shareholder together as Shareholders holding a 90% and 10% interest, respectively, as Shareholders in the Concessionaire including through any wholly-owned intermediate subsidiaries or (b) any other Person or combination of Persons, which combination may include the Initial Macquarie Shareholder and/or the Initial Fluor Shareholder, together as Shareholders holding a combined 100% interest as Shareholders in the Concessionaire, including through any wholly-owned intermediate subsidiaries, in accordance with a change to the Initial Shareholders approved by the District pursuant to Section 3.11 of Volume I of the RFP and effective prior to or concurrently with the Phase 1 Effective Date.

"Instruments" mean all instruments, chattel paper (whether tangible or electronic) or letter of credit rights.

"Insurance" means the contracts and policies of insurance taken out by or on behalf of the Company in accordance with any Transaction Document (to the extent of its interest) in which the Company has an interest, other than any municipal bond or financial guaranty insurance policy issued to guarantee the scheduled payment when due of any secured obligations or any bonds related thereto.

"Insurance Proceeds" means all proceeds of insurance (other than proceeds of business interruption insurance and loss of advance profits insurance) payable to or received by the Company (whether by way of claims, return of premiums, ex gratia settlements or otherwise).

"Intellectual Property Rights" means patents, patent applications, inventions, trademarks, trade names, service marks, copyrights (including, but not limited to the copyrights relating to any constructional, technical and/or design plans, including the Final Design Submittals, relating to the Concessionaire-operated Components and/or any plans of a similar nature relating to the Concessionaire-operated Components and Final Project Design), topography rights, rights to extract information from a database, database rights, rights in drawings, design rights, trade secrets, proprietary information, know-how and rights of confidence, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them.

"Interest Account" means the Interest Account of the Debt Service Fund created and established pursuant to the Indenture and described in "SECURITY FOR THE BONDS–Indenture" herein.

"Interest Payment Date" means each January 15 and July 15, commencing on January 15, 2011 and continuing for so long as the Series 2010 Bonds are outstanding.

"Interest Payments" means, with respect to a payment date for the Bonds, the interest (including the interest component of the Redemption Price due in connection with any mandatory redemption payment on any Bond) due on such date on the Bonds.

"Interest Period" means the period beginning on an Interest Payment Date and ending on the day immediately preceding the next Interest Payment Date; *provided* that the first Interest Period for the Series 2010 Bonds shall commence on the Closing Date and end on the day immediately preceding the first Interest Payment Date for the Bonds; *provided further* that the first Interest Period for any Additional Parity Bonds issued pursuant to the Indenture after the Closing Date shall commence on the date of issuance of such Additional Parity Bonds and end on the day immediately preceding the next succeeding Interest Payment Date for the Bonds.

"Interface Agreement" means an interface agreement to be entered into among the Design Build Contractor, the O&M Contractor and the Company with respect to the coordination of their respective obligations in connection with the Eagle P3 Project.

"Inter-Governmental Agreement" means any agreement entered into between the District and a Relevant Authority in relation to the Eagle P3 Project.

"Inventory" means all inventory and all other goods of the Company (including any embedded software) that are held by the Company for sale, lease or furnishing under a contract of service (including to its subsidiaries or

Affiliates), that are so leased or furnished or that constitute raw materials, work in process or material used or consumed in its business, all goods obtained by the Company in exchange for any such goods, all products made or processed from any such goods and all substances, if any, commingled with or added to any such goods as defined in the Security Agreement.

"Invoice" means the invoice submitted by the Company to the District for the Service Payment in respect of such calendar month, in the form attached to the Concession Agreement.

"IRS" means the Internal Revenue Service.

"Issuer" means the Regional Transportation District in its capacity as "conduit issuer" in the issuance of the Series 2010 Bonds, which are special, limited obligations of the Issuer.

"JAMS" means the entity that will conduct any arbitration disputes under the Design Build Contract and O&M Contract.

"JL Entity" means Denver Rail (Eagle) Holdings, Inc., a Delaware corporation.

"Key Third Parties" mean the District, the Project Third Parties, the Heavy Rail Operators, DUSPA, FTA and other Relevant Authorities under the O&M Contract.

"Laing" means John Laing Investments Ltd.

"Laing Associate" means:

(a) The JL Entity and any company which is its subsidiary, any holding company of the JL Entity or a subsidiary of such holding company; and/or

(b) the John Laing Pension Trust Limited registered number 00653103 (as trustee to the John Laing Pension Fund); and/or

(c) any unit trust, investment fund, partnership, other fund or other entity of which any entity referred to in sub-clause (a) of this definition or Henderson Group plc (incorporated and registered in Jersey with registered number 101484) or any of its subsidiaries is either the general partner, trustee or manager (either directly or indirectly) (as hereinafter used in this definition, a "Related Fund"); and/or

(d) any body corporate or other entity (whether or not having separate legal personality) in which the majority of voting or economic rights vests directly or indirectly in a Related Fund; and/or

(e) any general partner, nominee or trustee of any entity falling within sub-clauses (a), (c) or (d) of this definition acting in such capacity (whether on a change of general partner, nominee or trustee or otherwise); and/or

(f) limited partners, members or investors in any Related Fund, but only to the extent that such persons become so as a result of a transfer in specie to them, which is a distribution on a winding up out of the assets of the trust, fund or partnership in question.

"Laing Commitment" means the commitment of Laing and the JL Entity to purchase 50% of Macquarie's outstanding membership interest in DTH, such that the JL Entity will be the holder of 45% of the outstanding interests in DTH on the Closing Date. See "FINANCING FOR THE PROJECT–Expected Transfer of Macquarie's Ownership Interest" herein.

"Laing Letter Agreement" means the letter agreement among Macquarie Holding, Laing and the JL Entity.

"Laing PSA" means the Purchase and Sale Agreement among the JL Entity, Laing and Macquarie Holding.

"Last Revenue Service Commencement Date" means the last to occur of the date of issuance of the Revenue Service Commencement Certificate for the East Corridor Service, the Gold Line Project and the Northwest Rail Electrified Segment Project; *provided* that if the Phase 2 Effective Date does not occur, Last Revenue Service Commencement Date means the date of issuance of the Revenue Service Commencement Certificate for the East Corridor Service.

"Law" means any federal, state, local and municipal laws, rules and regulations, orders, codes, directives, permits, approvals, decisions, decrees, ordinances or by-laws having the force of law and any common or civil law, whether adopted or enacted prior to or after the date of the Concession Agreement including binding court and judicial decisions having the force of law, and includes any amendment, extension or re-enactment of any of the same in force from time to time and all other instruments, orders and regulations made pursuant to statute, including those made by any Relevant Authority.

"LBG Associate" means:

(a) the LBG Entity and any company which is its subsidiary, any holding company of the LBG Entity or a subsidiary of such holding company; and/or

(b) any unit trust, investment fund, partnership, other fund or other entity of which any entity referred to in sub-paragraph (a) of this definition or any of its subsidiaries is either the general partner, trustee or manager (either directly or indirectly) (as hereinafter used in this definition, a "Related Fund"); and/or

(c) any body corporate or other entity (whether or not having separate legal personality) in which the majority of voting or economic rights vests directly or indirectly in a Related Fund; and/or

(d) any general partner, nominee or trustee of any entity falling within the subparagraphs (a) or (c) of this definition acting in such capacity (whether on a change of general partner, nominee or trustee or otherwise); and/or

(e) limited partners, members or investors in any Related Fund but only to the extent that such persons become so as a result of a transfer in specie to them which is a distribution on a winding up out of the assets of the trust, fund or partnership in question.

"LBG Commitment" means the commitment of Bank of Scotland and the LBG Entity to purchase 50% of Macquarie's outstanding membership interest in DTH, such that the LBG Entity will be the holder of 45% of the outstanding interests in DTH on the Closing Date.

"LBG Entity" means Uberior Infrastructure Investments (No 4) USA LLC, a Delaware limited liability company.

"LBG Letter Agreement" means the letter agreement among Macquarie Holding, Bank of Scotland and the LBG Entity.

"LC Cost Reimbursement" means an amount equal to the actual letter of credit fee payable by any Sponsor to the issuer of the Equity Letter of Credit issued for its account, payable quarterly commencing on the first quarter occurring after the Closing Date.

"Lease Period" means the period commencing on the Phase 1 Effective Date and ending on the End Date; *provided* that in the case of Rolling Stock, the Lease Period will end on the later of (a) the End Date and (b) the Rolling Stock Termination Date (as defined in the Concession Agreement).

"Leasehold Mortgages" means the Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of August 1, 2010 by the Company to the Public the Trustee of each county in which the Commuter Rail Network is located.

"Leases" means all residential and commercial leases by the Company, as lessor, and a third party, as lessee, of any portion of the Commuter Rail Network, whether existing as of the Leasehold Mortgages or executed thereafter (other than the Concession Agreement), if any, which are subject to the Leasehold Mortgages.

"Lenders" means the Persons, including financial insurers, financial institutions and bondholders, which are, from time to time, parties to, or otherwise have rights under or pursuant to, any of the Designated Credit Agreements and/or who provide a financing facility or facilities (including any hedging arrangements, any financial insurance policies, lease financing or tax benefit monetization financing) to the Company in accordance with such Designated Credit Agreements.

"Lenders' Direct Agreement" means that Direct Agreement entered into among the District, the Trustee on behalf of the Owners of the Bonds and the Company and as described in APPENDIX D–"SUMMARY OF CERTAIN PROVISIONS OF THE LENDERS' DIRECT AGREEMENT" herein.

"Lenders' Liabilities" means all unpaid principal of the Bonds and all interest accrued on the Bonds until the Termination Date, as well as other amounts owed by the Company to lenders and financial institutions and certain other payments.

"Limited Phase 1 Notice to Proceed" means a written notice issued by the District authorizing the Company to commence or to permit commencement of the Phase 1 Work, except for any such Phase 1 Work (a) that requires the Company to enter onto or use the UP Sites or (b) that would, when taken together with all other work undertaken by the Company under the Limited Phase 1 Notice to Proceed, require expenditure or commitment by the Company (and the Design Build Contractor on behalf of the Company) of an amount in excess of the Maximum Limited Phase 1 Work Value.

"Loan" means the loan to the Company by the Issuer pursuant to the Series 2010 Issuer Loan Agreement of the entire amount of the proceeds from any Series 2010 Bonds issued pursuant to the Indenture.

"Loan Agreement" means that certain loan agreement by and between the District and the Company pursuant to which the Issuer agreed to loan the entire proceeds of the Series 2010 Bonds to the Company.

"Loan Agreement Default" means any "Event of Default" under the Series 2010 Issuer Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed).

"Loan Life Coverage Ratio" means the ratio, as of any Calculation Date, of (a) the present value of Company's Free Cash Flow from such Calculation Date to the date that is the fortieth anniversary of the Closing Date discounted at the all-in interest rate applicable to the Bonds plus the amounts credited to the Project Accounts as of such Calculation Date to (b) the principal amount of the Bonds then Outstanding.

"Lockbox Account Agreement" means that certain Lockbox Account Agreement among the Company, the Trustee, the Securities Intermediary and the Account Bank.

"Lockbox Account Collateral" means, subject to the Lockbox Account Agreement, (a) all Lockbox Project Accounts and funds deposited therein and moneys, funds, instruments, securities and all other property from time to time credited to such Lockbox Project Accounts, (b) all "securities accounts" (within the meaning of Section 8-501 of the UCC), all deposit accounts and any and all other bank accounts, and (c) all "proceeds" (as defined under the UCC) of any or all of the foregoing, that is subject to a security interest granted by the Company pursuant to the Security Agreement.

"Lockbox Project Accounts" means the Borrower Construction Account, and within the Borrower Construction Account, a sub-account designated the Equity Contribution Sub-Account and a sub-account designated the Construction Payment Sub-Account, the Revenue Account, and within the Revenue Account, a sub-account designated the Series 2010 Interest Sub-Account and a sub-account designated the Series 2010 Principal Sub-Account, the Renewal Works Reserve Account, the Operating Account, the Distribution Account, the Management

Services Fee Account and the Borrower Change In Law Contingency Account, and any other sub-account of the foregoing accounts created from time to time pursuant to the Lockbox Account Agreement.

"Lock-Up Funds Application Certificate" means the Lock-Up Funds Application Certificate in a form substantially as set forth in the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Distribution Account*" herein.

"Losses" means any losses, damages, costs, expenses, charges, fees, fines or liabilities.

"Macquarie" means MIHI LLC.

"Macquarie Holding" means Macquarie FasTracks Holdings, LLC.

"Management Services Fee" means, with respect to each Sponsor, a fee equal to 3% per annum on the amount of any equity contribution made by or on behalf of such Sponsor, from the Closing Date, and until December 31, 2016, as set forth in each applicable Management Services Fee Account Certificate.

"Management Services Fee Account" means the Management Services Fee Account created and established pursuant to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Management Services Fee Account*" herein.

"Management Services Fee Account Certificate" means the Management Services Fee Account Certificate substantially in the form of the Management Services Fee Account Certificate attached to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Management Services Fee Account*" herein.

"Material Adverse Effect" means a material adverse effect on:

(a) The business, properties, performance, results of operation or condition (financial or otherwise) of the Company;

(b) The legality, validity or enforceability of a Financing Document, the Concession Agreement or the Design Build Contract;

(c) The Company's ability to observe and perform its material obligations under any Financing Document or the Concession Agreement, the Design Build Contractor's ability to observe and perform its material obligations under the Design Build Contract or the O&M Contractor's ability to observe and perform its material obligations under the O&M Contract;

(d) The validity, perfection or priority of the security created pursuant to the Security Documents; or

(e) The rights of the Owners of the Bonds and the Trustee under the Financing Documents, including the ability of the Owners of the Bonds or the Trustee to enforce their rights and remedies under the Financing Documents;

provided that for purposes of the definition of "Material Adverse Effect" in the Indenture Construction Account Withdrawal Certificate and the Borrower Construction Account Withdrawal Certificate such material adverse effect would result in a Concessionaire Termination Event; *provided*, *further* that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein, (ii) financial, banking, currency or capital markets fluctuations or conditions, including changes in interest rates, (iii) conditions affecting the transportation industry generally, (iv) any action, omission, change, effect, circumstance or condition contemplated by the Financing Documents or attributable to the execution, performance or announcement of the

Financing Documents or the transactions contemplated thereby, or (v) events that are Relief Events or Force Majeure Events.

"Material O&M Subcontractor" means each of the O&M Subcontractors specified in the Concession Agreement and/or the O&M Contract, as the case may be, as a Material O&M Subcontractor.

"Material Project Contracts" means: (a) the Concession Agreement; (b) the Design Build Contract; (c) any Rolling Stock Supply Contracts; (d) the Design Build Guaranty; (e) the O&M Contract; and (f) the O&M Guaranty.

"Material Subcontractor" means each Material Design Build Subcontractor and Material O&M Subcontractor.

"Material Subcontract Work" means, in respect of each Material Subcontractor, the parts of the Work or operation and maintenance, as the case may be, which such Material Subcontractor has been contracted to carry out as set out in Attachment 4 to the Concession Agreement.

"Maximum Additional TABOR Portion" or *"MATP"* is a formula set forth in the Concession Agreement to calculate the maximum TABOR Portion as described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT" herein.

"Maximum Annual Debt Service Requirements" means the maximum aggregate amount of Debt Service Requirements (excluding redemption premiums) due on the Securities for which such computation is being made in any Bond Year beginning with the Bond Year in which Debt Service Requirements of such Securities are first payable after the computation date and ending with the Bond Year in which the last of the Debt Service Requirements are payable. For purposes of this meaning, "Debt Service Requirements" means, for any period, the amount required to pay the principal of and interest on any designated Securities during such period; *provided* that the determination of the Debt Service Requirements of any Securities shall assume the redemption and payment of such Securities on any applicable mandatory redemption dates; and *provided further* that in any computation relating to the issuance of additional Senior RTD Debt required by the Concession Agreement, there shall be excluded from the computation of Debt Service Requirements any proceeds on deposit in a bond fund or similar fund or account for such Securities constituting capitalized interest.

"Maximum Annual Phase 1 and Phase 2 Construction Payment Amount" means the Maximum Annual Phase 1 and Phase 2 Construction Payment Amount as calculated in accordance with the Concession Agreement.

"Maximum Annual Phase 1 Construction Payment Amount" means, following the Phase 1 Effective Date and prior to the Phase 2 Effective Date, the aggregate Phase 1 Construction Payments that the Company can claim in any design build calendar year as set forth in the Concession Agreement.

"Maximum Annual Phase 2 Construction Payment Amount" means the Maximum Annual Phase 2 Construction Payment Amount with respect to each calendar year as set forth in the Concession Agreement.

"Maximum Annual Phase 2 Financing Cost Amount" means the Maximum Annual Phase 2 Financing Cost amount as set forth in the Concession Agreement.

"Maximum Limited Phase 1 Work Value" means U.S.$150,000,000 (not including any amounts separately payable by the District in respect of an RTD Proposed Change, Relief Event or Force Majeure Event), as such amount may be increased in accordance with the Concession Agreement or otherwise at the District's sole discretion.

"Minimum Projected Debt Service Coverage Ratio" means, as of the date of determination, the ratio of A divided by B where:

A = the Company's Free Cash Flow for the 12-month period ending on the Calculation Date immediately preceding the date of the proposed issuance of any Additional Parity Bonds; and

B = the maximum amount payable in any one Fiscal Year with respect to all scheduled principal and interest on any Bonds Outstanding, any Promissory Notes Outstanding and any Additional Parity Bonds to be issued on such date of determination.

"Modification" means the modification to the Scope of Services and/or an adjustment to the Monthly Operator's Fee and/or payment or reimbursement of costs and expenses by the Company in accordance with the terms of the O&M Contract.

"Monthly Operator's Fee" means the monthly fees which are due and payable to the O&M Contractor for the performance of the Services, as more specifically provided for in the O&M Contract and described in Appendix F.

"Monthly Progress Schedule" means the Current Baseline Schedule updated every month to show the actual progress of Work and the Earned Value of the Work carried out.

"Moody's" means Moody's Investor Services and any successor to its rating agency business.

"MSRB" means the Municipal Securities Rulemaking Board.

"MTA" means the Mass Transit Account described in "FINANCING FOR THE PROJECT-Federal Funding" herein.

"Multiemployer Plan" means a Pension Plan which is a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA.

"Nationally Recognized Rating Agency" means any nationally recognized securities rating agency that provides a rating on the Bonds at the request of the Company.

"NEPA" means the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*

"Net Effective Interest Rate" means the Net Interest Cost of Securities issued pursuant to the 2004 Election divided by the sum of the products derived by multiplying the principal amount of the Securities maturing on each maturity date by the number of years from their issue date to their respective maturities. In all cases, Net Effective Interest Rate will be computed without regard to any option of redemption prior to the designated maturity dates of the Securities.

"Net Interest Cost" means the total amount of interest to accrue on Securities issued pursuant to the 2004 Election from their issue date to their respective maturities, less the amount of any premium above par, or plus the amount of any discount below par, at which said Securities are being or have been sold. In all cases, Net Interest Cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the Securities.

"Non-Recourse Parties" means DTH or any past, present or future officers, directors, employees, shareholders, agents, attorneys or representatives of DTH or any of its Affiliates (other than the Company).

"North Metro Corridor" means the proposed 18-mile transit corridor between Denver Union Station and 162nd Avenue passing through Denver, Commerce City, Thornton, Northglenn and unincorporated Adams County.

"Northwest Rail Corridor" means the proposed 41-mile rail transit corridor between Denver Union Station and Longmont.

"Northwest Rail Electrified Segment" or *"NWES"* means the commuter rail line comprised of the line between the DUS Rail Segment and South Westminster Station, from which the Gold Line diverges at Pecos Junction, as described in the Concessionaire's Proposal.

"Northwest Rail Electrified Segment Facilities" means the stations and park-n-ride facilities at South Westminster Station, as described in the Concessionaire's Proposal.

"Northwest Rail Electrified Segment Project" means the Northwest Rail Electrified Segment Facilities, the Concession Equipment forming part of the Northwest Rail Electrified Segment and the other Work to be designed, constructed, operated and maintained as part of the Northwest Rail Electrified Segment in accordance with the Project Requirements and otherwise pursuant to the Concession Agreement, the Design Build Contract and the O&M Contract.

"Northwest Rail Electrified Segment Service" means the commuter rail service to be provided by the Company in accordance with the requirements of the Concession Agreement on the Northwest Rail Electrified Segment.

"Northwest Rail Electrified Segment Site" means the land, spaces and surfaces with respect to the Northwest Rail Electrified Segment as described in the Concession Agreement and as modified or supplemented in accordance with the Concession Agreement and the Design Build Contract.

"NWES Environmental Evaluation" means the Northwest Rail Corridor Draft Environmental Evaluation dated February 2010 developed by the District in connection with the environmental evaluation conducted by the District pursuant to NEPA with respect to the Northwest Rail Electrified Segment.

"O&M Contract" means the operating agreement for the operation and maintenance services and lifecycle works as required under the Concession Agreement, dated July 9, 2010, as amended on July 22, 2010, between the Company and the O&M Contractor.

"O&M Contractor" means Denver Transit Operators, LLC, a Delaware limited liability company and its successors, assigns and replacements under the O&M Contract.

"O&M Contractor Direct Agreement" means the Direct Agreement to be entered into among the Trustee, the O&M Contractor and the Company.

"O&M Expenditures" means, for any period, the sum (without duplication) of the following costs paid by or on behalf of the Company: (a) the sum of all salaries, employee benefits and other compensation; plus (b) insurance premiums; plus (c) costs of operating and maintaining the Eagle P3 Project, including renewal works; plus (d) property and other taxes payable by the Company in respect of the Eagle P3 Project; plus (e) fees for accounting, legal and other professional services, including fees paid to the Trustee; plus (f) general and administrative expenses; plus (g) capital expenditures (other than capital expenditures included in the capital budget); plus (h) all other cash expenditures approved by the Technical Advisor relating to operation, maintenance and administrative costs of the Eagle P3 Project; and plus (i) filings or other costs required in connection with the maintenance of the first priority lien of the Owners of the Bonds and the Trustee on behalf of the Owners of the Bonds in the Project Collateral; *provided*, that the following shall be excluded from such calculation: (i) payments of principal, interest or fees with respect to the Bond Obligations and other Indebtedness permitted under the Financing Documents; (ii) capital expenditures paid with funds made available to the Company by contributions of equity in addition to the Equity Contributions; (iii) any payments, dividends or distributions to any Person in respect of any capital stock of the Company; (iv) depreciation, amortization of intangibles and other non-cash accounting entries of a similar nature for such period; and (v) income taxes.

"O&M Guarantors" means Fluor Corporation, Balfour Beatty, LLC and Balfour Beatty plc.

"O&M Guaranty" means each guarantee executed and delivered by the O&M Guarantors in favor of the Borrower substantially in the form of Exhibit L-1 or Exhibit L-2 of the O&M Contract.

"O&M Letter of Credit" means the letter of credit given to the Company by the O&M Contractor as security for the full and timely performance of its obligations under the O&M Contract that is issued by a Qualifying Institution.

"O&M Specifications" means the specifications and provisions set out in Attachment 10 (O&M Specifications) to the Concession Agreement.

"O&M Standards" means the standards with which the Company must comply in the operation of the Commuter Rail Services and the operation and maintenance of the Concessionaire-operated Components throughout the Operating Period described in APPENDIX C—"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

"O&M Subcontractor" means any Subcontractor to the O&M Contractor.

"O&M Submittals" means the manuals, programs and plans referred to in the Concession Agreement and/or the O&M Contract to be prepared, adopted, complied with and/or implemented by the Company and/or the O&M Contractor, as the case may be, setting out policies, instructions and procedures for the operation, inspection and maintenance of the Concessionaire-operated Components during the Operating Period.

"OCIP" means the Owner Controlled Insurance Program to be procured by the District, which shall provide certain insurance coverages described in the Concession Agreement, as described in APPENDIX C–"SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT."

"OCIP Manual" means the RTD FasTracks Owner Controlled Insurance Program Manual Eagle P3 Project, a copy of which is attached to the Concession Agreement, as amended from time to time.

"On Time Availability" is a part of the Availability Ratio as defined in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement" herein.

"Operator" means the O&M Contractor.

"Operating Account" means the Operating Account contemplated by the Lockbox Account Agreement, or any replacement operating account that the Company may establish with another financial institution if (1) the replacement operating account contains a "deposit account" and, at the option of the Company, a "securities account" (both as defined in the UCC), (2) the Company executes a control agreement in the form attached to the Lockbox Account Agreement, or any other form of control agreement as agreed among the applicable financial institution, the Company and the Trustee and (3) the Company provides notice of the replacement operating account to the Account Bank (with a copy to the Trustee), as described in "ACCOUNTS AND FLOW OF FUNDS—Description of Lockbox Project Accounts Under the Lockbox Account Agreement—Operating Account."

"Operating Expenses" means O&M Expenditures.

"Operating Period" means the period from (and including) the first Revenue Service Commencement Date to occur (or such later date as the District may require pursuant to the terms of the Concession Agreement) to (and including) the earlier of the Expiry Date or the Termination Date, as described in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement" herein.

"Operator Breakage Cost" means (a) the direct, out-of-pocket costs reasonably incurred by the O&M Contractor in withdrawing its equipment and personnel from the Sites and the Eagle P3 Project and in otherwise demobilizing and (b) the direct, out-of-pocket costs reasonably incurred by Operator in terminating contracts with Subcontractors.

"Operator Termination Payments" means a termination payment that the O&M Contractor will be entitled to receive upon termination of the O&M Contract in accordance with the O&M Contract, as described in

APPENDIX F—"SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT."

"Operator's Fee" means the fees as described in the O&M Contract.

"Operator's Modification Proposal" means the proposal given to the Company by the O&M Contractor upon the occurrence of a Relief Event, and according to the terms specified in the O&M Contract that must contain (a) details of the nature of the Relief Event and its duration (or the O&M Contractor's estimate of its likely continued duration); and (b) an estimate of its likely impact on the Services and the Project and a description of the O&M Contractor's obligations under the O&M Contract which is delayed or prevented, including details of the steps taken or to be taken by the O&M Contractor to avoid the Relief Event and reasons why the Relief Event could not be avoided by the O&M Contractor to modify the terms of the O&M Contract and Project Requirements.

"Original Baseline Schedule" means the Company's proposed schedule for all capital projects that includes detailed activities describing the Work at the approved WBS level, all of which is the basis for measurement of the Earned Value of each element of the Work carried out over each period and for the Company's projected cash flow.

"Other Permitted Parity Bonds" means the Other Permitted Parity Bonds that may be issued pursuant to the Indenture and described in "SECURITY FOR THE BONDS—Indenture" herein.

"Other RTD Project" means any rail line or other transportation facility that is constructed, operated and/or maintained by or on behalf of the District (other than by the Company, but including any Concessionaire-operated Expansion) during the Lease Period.

"Outstanding" means, as of any date of determination, all Bonds that have been executed, authenticated and delivered under the Indenture, except:

(a) any Bond, or portion thereof, on which all principal and interest due or to become due on or before maturity has been paid;

(b) any Bond, or portion thereof, on which the Redemption Price due or to become due has been paid in accordance with the redemption provisions applicable to such Bond;

(c) Bonds in lieu of which other Bonds have been executed, authenticated and delivered pursuant to the provisions of the Indenture relating to the transfer and exchange of Bonds or the replacement of mutilated, lost, stolen or destroyed Bonds;

(d) Bonds that have been canceled by the Trustee or that have been surrendered to the Trustee for cancellation;

(e) Bonds on which all principal and interest or the Redemption Price is due and for which the Trustee holds moneys sufficient to pay the principal and interest or Redemption Price for the benefit of the Owner thereof pursuant to the Indenture; and

(f) Bonds that have been defeased pursuant to and in accordance with the Indenture.

"Overview" means an economic and demographic overview of the Denver metropolitan area as of July 2010.

"Owner" of a Bond means the registered owner of such Bond as shown in the registration records of the Trustee.

"Party" means, with respect to any Transaction Document, a party to such Transaction Document.

"Passengers" mean members of the public lawfully present on or using any part of the Concessionaire-operated Components.

"Pension Plan" means a "pension benefit plan" as defined in Section 3(2) of ERISA that is subject to Title IV of ERISA other than a Multiemployer Plan, that is maintained or contributed to by the Company and ERISA Affiliate.

"Penta-P" means the FTA's Public-Private Partnership Pilot Program.

"Performance Deduction" means the formula set forth in the Concession Agreement for determining such amount and as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT–Service Payments" herein.

"Performance Deduction Percentage" means the "Performance Deduction Percentage (PDP_{mn})" formula as determined in the Concession Agreement.

"Permit" means all approvals, permits, permissions, consents, licenses, certificates (including sales tax exemption certificates) and authorizations (whether statutory or otherwise) which are required from time to time in connection with the Eagle P3 Project to be issued by the District, any Relevant Authority, any Utility Owner or any Project Third Parties.

"Permitted Indebtedness" means:

(a) the Bond Obligations;

(b) senior secured Indebtedness representing the obligation of the Company to pay certain costs related to the issuance of the Series 2010 Bonds on the Closing Date (the "Promissory Notes"), payable from the proceeds of the first Construction Payment and otherwise in accordance with the Lockbox Account Agreement;

(c) unsecured Indebtedness from a Sponsor subordinate to the Bond Obligations on terms and conditions to be agreed upon by the Company and the subordinate lenders and subject to Attachment D of the Series 2010 Issuer Loan Agreement and Article V of the Lockbox Account Agreement (such Indebtedness being the "Permitted Subordinated Debt");

(d) purchase money obligations in an amount not to exceed $500,000 at any time incurred to finance discrete items of equipment not comprising an integral part of the Project that extend to, and are secured by, only the equipment being financed, as long as such indebtedness does not exceed the purchase price paid for such equipment;

(e) current accounts payable arising, and accrued expenses incurred, in the ordinary course of business which are payable in accordance with customary practices that are not overdue by more than ninety (90) days (unless subject to a good faith contest and reserved against in accordance with GAAP); or

(f) reimbursement obligations with respect to letters of credit required to be issued to the District regarding handover and other reimbursement obligations with respect to letters of credit issued in connection with reserve requirements under the Financing Documents.

"Permitted Investments" means to the extent permitted by State law:

(a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) Investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;

(c) Investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000, including the Trustee or any of its affiliates;

(d) Investment agreements, including guaranteed investment contracts, repurchase agreements, deposit agreements and forward delivery agreements, that are obligations of an entity whose senior long term debt obligations, deposit rating or claims-paying ability are rated, or guaranteed by an entity whose obligations are rated (at the time the investment is entered into), not lower than "A2" by Moody's or its equivalent from another Nationally Recognized Rating Agency, including the Trustee or any of its affiliates;

(e) Money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated "AAA" by S&P and "Aaa" by Moody's and (iii) have portfolio assets of at least $5,000,000,000, including any such fund to which the Trustee or any of its affiliates provides services as an investment advisor, custodian, subcustodian, investment manager, administrator and/or shareholder servicing agent, notwithstanding that (x) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (y) the Trustee collects fees for services rendered pursuant to the Indenture, which fees are separate from the fees received from such funds, and (z) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee; and

(f) Investments in Subsidiaries.

"Permitted Security Interest" means:

(a) Any Security Interest arising by operation of law or in the ordinary course of business in connection with or to secure the performance of bids, tenders, contracts, leases, statutory obligations, surety bonds or appeal bonds;

(b) Any mechanic's, materialmen's, workmen's, repairmen's, employees', warehousmen's, carriers' or any like lien or right of set-off arising in the ordinary course of business or under applicable law, securing obligations incurred in connection with the Project which are not overdue by more than thirty (30) days or are being contested in good faith;

(c) Any right of title retention in connection with the acquisition of assets in the ordinary course of business;

(d) Any Security Interest for taxes, assessments or governmental charges not yet due or being contested in good faith;

(e) Any Security Interest arising out of judgments or awards fully covered by insurance or with respect to which an appeal or proceeding for review is being prosecuted, enforcement has been stayed or bonded and reserves have been established in accordance with GAAP;

(f) Any Security Interest created pursuant to or contemplated by the Financing Documents or to secure Bond Obligations;

(g) Any right of set-off arising under a Material Project Contract or Financing Document;

(h) Any other lien granted over assets with a value not exceeding $500,000 (or its equivalent);

(i) Any other Security Interest securing Permitted Indebtedness described in clauses (b), (d) and (f) of the definition thereof;

(j) Any Security Interest incurred or deposit made in the ordinary course of business in connection with workers' compensation, unemployment insurance or other forms of governmental insurance or benefits;

(k) Any Security Interest arising solely by virtue of any statutory or common law provision relating to banker's liens, rights to set-off or similar rights;

(l) Licenses or sublicenses of intellectual property granted in the ordinary course of business;

(m) Any other Security Interest approved in writing by the Owners of a majority in aggregate principal amount of the Bond Obligations;

(n) Any lien on the District's property or assets existing at the Closing Date; *provided* that (i) such lien shall not apply to any other property or asset of the Company and (ii) such lien shall secure only those obligations which it secures at the Closing Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(o) Any lien existing on any property or asset prior to the acquisition thereof by the Company or the District; *provided* that (i) such lien is not created in contemplation of or in connection with such acquisition, (ii) such lien shall not apply to any other property or assets of the Company and (iii) such lien shall secure only those obligations which it secures on the date of such acquisition and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof.

"Permitted Subordinated Debt" has the meaning given to it in clause (c) of the definition of Permitted Indebtedness.

"Persistent Condition" means Service Task Orders that are not resolved after the fourth (and each subsequent) 12-hour period occurring after the Service Task Order.

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, business entity, municipality, county, the District or any other person having separate legal personality.

"Personalty" means all furniture, furnishings, equipment, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures), exclusive of tenants' betterments, which are used now or in the future in connection with the construction, ownership, management or operation of Company's interest in the Commuter Rail Network or the Improvements or are located on the Company's interest in the Commuter Rail Network or in the Improvements, and any operating agreements relating to the Company's interest in the Commuter Rail Network or the Improvements, and any surveys, plans and specifications and contracts and other agreements for design, architectural, engineering and construction services relating to the Company's interest in the Commuter Rail Network or the Improvements or for the supplying of labor or materials, and all other intangible property and rights relating to the construction, operation, management or leasing of, or used in connection with, the Company's interest in the Commuter Rail Network or the Improvements, including all permits, licenses, approvals and consents relating to any activities conducted as of the date of the Leasehold Mortgages or thereafter on the Company's interest in the Commuter Rail Network.

"Phase 1" means (a) the Phase 1 Work, (b) the provision of the East Corridor Service, (c) the operation and maintenance of the East Corridor, DUS to CRMF, the Rolling Stock (excluding the Phase 2 Rolling Stock after delivery by the District of a Phase 2 Rolling Stock Termination Notice), the CRMF and, from the Actual DUS Access Date, the DUS Rail Segment, (d) subject to Section 5.10(b) of the Concession Agreement, the maintenance of the Gold Line Sites and the Northwest Rail Electrified Segment Sites, and (e) from the later of the Actual DUS Access Date and the Guaranteed DUS Access Date, dispatch of the Heavy Rail Movements on the DUS Rail Segment.

"Phase 1 Conditions Precedent" means each of the following conditions set out in the Concession Agreement:

(a) each of the following has been executed by the relevant parties thereto and is in form and substance acceptable to the District in accordance with the Concession Agreement, and a copy of each such document, certified by the Company as being true, complete and accurate, has been delivered to the District:

(i) the Design Build Contract;

(ii) the O&M Contract;

(iii) the Rolling Stock Supply Contract; and

(iv) the Designated Credit Agreements;

(b) each of the following has been executed by the relevant parties thereto and have become unconditional in all respects (except for any condition relating to the Phase 1 Effective Date occurring under the Concession Agreement):

(i) the Construction Security;

(ii) the Memorandum of Lease; and

(iii) the Lenders' Direct Agreement;

(c) the District has delivered to the Company a notice accepting the Financial Model and any revisions to the Service Payments contained in the Concessionaire's Proposal in accordance with the Concession Agreement delivered by the Company to the District immediately prior to Financial Close on the basis that the Financial Model and any such revisions to the Service Payments do not reflect, or the District otherwise expressly waives its right to reject and accepts, any (i) adjustment to the Base Annual Service Payments that exceed the limits referenced in the RFP and (ii) increase in credit spreads greater than 60 bps; and following the delivery of such notice, Financial Close has occurred and the Company has delivered to the District a certificate to that effect;

(d) the Company has delivered to the District an unrestricted electronic version (and, if requested by the District, a paper version) of the Financial Model in the form attached to the Concession Agreement, which versions incorporate any amendments agreed between the Parties between the date of the Concession Agreement and the date of delivery of the Financial Model, which date(s) shall be:

(i) on each of the dates that is 10 days prior to, one day prior to and immediately following the date of the pricing of the Series 2010 Bonds; and

(ii) on the date of and immediately prior to Financial Close, incorporating final pricing for the Series 2010 Bonds, the terms of which shall be fixed for purposes of Financial Close, and reflecting the adjustments, if any, to certain principal and total repayment cost limits set forth in the Concession Agreement;

in each case, together with the books and documents setting forth all assumptions, calculations and methodology used in the preparation of the Financial Model and any other documentation necessary or reasonably requested by the District to operate the Financial Model;

(e) the Company has provided the District with revisions to the Service Payments contained in the Concessionaire's Proposal together with each Financial Model delivered under the Concession Agreement, which such revisions to the Service Payments to incorporate any adjustments or amendments made in accordance with the RFP;

(f) to the extent not previously provided under the Concession Agreement, the District has provided the Company with evidence that the insurance requirements applicable during the Design Build Period, as set out in the Concession Agreement, with which the District is responsible for complying on or prior to the Phase 1 Effective Date, have been complied with in full and that the relevant premiums for the required insurance policies have been paid;

(g) to the extent not previously provided under the Concession Agreement, the Company has provided the District with evidence that the insurance requirements applicable during the Design Build Period, as set out in the Concession Agreement, with which the Company is responsible for complying on or prior to the Phase 1 Effective Date, have been complied with in full and that the relevant premiums for the required insurance policies have been paid;

(h) the Company shall have delivered to the District evidence that the Equity Commitments have been entered into, in a form satisfactory to the District;

(i) the Company shall have delivered to the District such documents and certificates as the District may reasonably request relating to the organization, existence and good standing of the Company, the authorization of the entry by the Company into the Project Agreements to which it is a party and any other legal matters relating to the Company, the Concession Agreement, the other Project Agreements and the Eagle P3 Project, all in form and substance satisfactory to the District;

(j) the Company has provided to the District legal opinions, addressed to the District, from external legal counsel as to:

(i) organization and existence of the Company;

(ii) due authorization and execution of the Concession Agreement;

(iii) obtaining of all required consents and approvals with respect to commencing the Work;

(iv) enforceability of, and absence of conflicts with respect to, the Concession Agreement and the other Project Agreements; and

(v) the absence of material litigation;

in each case in form and substance reasonably satisfactory to the District;

(k) the District has provided to the Company:

(i) a legal opinion from the general counsel to the District, addressed to the Company, the Lenders and the Initial Shareholders, in substantially the form attached to the Concession Agreement, and

(ii) a legal opinion from external legal counsel to the District, addressed to the Company, the Lenders and the Initial Shareholders, in substantially the form attached to the Concession Agreement, as to compliance of the Concession Agreement with Article X Section 20 and certain other relevant provisions of the Colorado Constitution;

(l) the representations and warranties of the Company set out in the Concession Agreement were correct when made and are correct at the Early Work Effective Date and the Phase 1 Effective Date;

(m) the representations and warranties of the District set out in the Concession Agreement were correct when made and are correct at the Early Work Effective Date and the Phase 1 Effective Date; and

(n) the Company has delivered to the District a certificate signed by the chief financial officer of the Company, confirming that the accounting practices to be used by the Company are consistent with GAAP.

"Phase 1 Construction Payment" means each installment payment of the sum of the Maximum Annual Phase 1 Construction Payment Amounts, with respect to Phase 1, following the Phase 1 Effective Date and prior to the Phase 2 Effective Date.

"Phase 1 Effective Date" means the date on which all Phase 1 Conditions Precedent set out in the Concession Agreement are satisfied in accordance with the Concession Agreement.

"Phase 1 Excess Financing Amount" means the amount of additional private financing required to fund the completion of the Phase 1 Work (calculated by reference to the Financial Model) and all incremental costs in the event that the Phase 2 Notice to Proceed is not issued, and the Maximum Annual Phase 1 Construction Payment Amounts are not increased in accordance with the Concession Agreement (or U.S.$468,369,318.00).

"Phase 1 Excess Financing Request" means the request by the District to the Company for the Company to use Reasonable Efforts to secure debt financing from Lenders and equity support from the Shareholders equal to the Phase 1 Excess Financing Amount on terms consistent in all material respects with the Financial Model as at Financial Close if the Phase 2 Condition Precedent is not satisfied on or before the Phase 2 Condition Precedent Satisfaction Date.

"Phase 1 Notice to Proceed" means a written notice in which the District authorizes the Company to commence or to permit commencement of the Phase 1 Work.

"Phase 1 Rolling Stock" means rolling stock demonstrated in the Rolling Stock Fleet Management Plan by the Company, Design Build Contractor and/or the O&M Contractor, as the case may be, to be necessary to support the service requirements for Commuter Rail Services on the East Corridor in accordance with the O&M Specifications.

"Phase 1 Work" means all performance and work required for, carried out or executed in or in relation to or in connection with, the design, construction, procurement and completion of the East Corridor Project, DUS to CRMF and the Commuter Rail Maintenance Facility and the BNSF Relocation Work (including the Early Work), and, following the delivery of a Third Party Option Notice, if any, the Third Party Option(s) set forth therein, the Final Project Design, the procurement and installation of the DUS Systems on the DUS Rail Segment Site and the procurement of the Rolling Stock, in each case as described in the Scope Document, including any applicable Temporary Work.

"Phase 1 Work Commencement Date" means the date on which the Company advises the Design Build Contractor that the District has issued the Phase 1 Notice to Proceed.

"Phase 2" means (a) the Phase 2 Work, (b) the provision of the Gold Line Service and the Northwest Rail Electrified Segment Service and (c) the operation and maintenance of the Gold Line and the Northwest Rail Electrified Segment.

"Phase 2 Condition Precedent" means the delivery by the District of the Phase 2 Notice to Proceed to the Company prior to the Phase 2 Condition Precedent Satisfaction Date.

"Phase 2 Condition Precedent Satisfaction Date" means December 31, 2011, as such date may be extended in accordance with the Concession Agreement subject to the Company's receipt of the Design Build Contractor's consent (such consent not to be unreasonably withheld or delayed).

"Phase 2 Construction Payment" means each installment of the sum of the Maximum Annual Phase 1 and Phase 2 Construction Payment Amounts following the Phase 2 Effective Date.

"Phase 2 Effective Date" means the date on which each Phase 2 Condition Precedent set out in the Concession Agreement is satisfied in accordance with the Concession Agreement.

"Phase 2 Financing Cost Payment" means each installment of the sum of the Maximum Annual Phase 2 Financing Cost Amounts.

"Phase 2 Notice to Proceed" means a written notice in which the District notifies the Company that the District has received commitments of or reasonably expects to receive funding in the form of federal grants or other state and/or local funds in an amount not less than the aggregate of all Maximum Annual Phase 2 Construction Payment Amounts, the District states that the Phase 2 Effective Date has occurred for purposes of the Concession Agreement, and the District specifies such date.

"Phase 2 Rolling Stock" means rolling stock demonstrated in the Rolling Stock Fleet Management Plan by the Company, Design Build Contractor and/or the O&M Contractor, as the case may be, to be necessary to support the service requirements for Commuter Rail Services on the Gold Line and Northwest Rail Electrified Segment in accordance with the O&M Specifications.

"Phase 2 Rolling Stock Termination Notice" means the notice delivered by the District to the Company prior to the scheduled delivery date of the first Phase 2 Rolling Stock under the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule) notifying the Company of the location or locations for delivery of the Phase 2 Rolling Stock.

"Phase 2 Work" means all performance and work required for, carried out or executed in or in connection with, the design, construction, procurement and completion of the Gold Line Project and the Northwest Rail Electrified Segment Project, in each case as described in the Scope Document, including any applicable Temporary Work.

"Phase 2 Work Commencement Date" means the date the Company delivers to the Design Build Contractor or the O&M Contractor, as applicable, a copy of the Phase 2 Notice to Proceed received from the District at any time prior to December 31, 2011, which date is intended to be the same date as the date on which the District delivers such notice to the Company.

"Pledge Agreement" means that certain Membership Interest Pledge Agreement to be entered into between the Trustee and DTH.

"Pledged Collateral" means the security collateral pledged by DTH to the Trustee, and its successors and assigns, for the prompt irrevocable and indefeasible payment in full when due (whether at stated maturity, upon acceleration, on any optional or mandatory prepayment date or otherwise) and performance of any and all of the Bond Obligations, as described in "SECURITY FOR THE BONDS—Membership Interest Pledge Agreement" herein.

"Pledged Membership Interest" means the limited liability company interests in the Company and all options, warrants and rights to purchase limited liability company interests in the Company and all dividends, distributions, cash, securities, instruments and other property from time to time paid, payable or otherwise distributed in respect of or in exchange for all or any part of its limited liability company interests in the Company and all proceeds thereof.

"Potential Distribution Date" means the third Business Day prior to the fifteenth calendar day of each of April, July, October and January.

"Potential Event of Default" means an event, which with the giving of notice or lapse of time would become an Event of Default under the Financing Documents.

"PPP" means private-public-partnership.

"Principal Account" means the Principal Account of the Debt Service Fund established and created pursuant to the Indenture and described in "SECURITY FOR THE BONDS–Indenture" herein.

"Principal Payment Date" means any date on which Principal Payments are due.

"Principal Payments" means, with respect to a payment date, the principal (including the principal component of the Redemption Price due in connection with any mandatory redemption payment on any Bond) due or to become due prior to the next succeeding Interest Payment Date.

"Project" means the Eagle P3 Project.

"Project Accounts" means the Lockbox Project Accounts created and established pursuant to the Lockbox Account Agreement and the Indenture Project Accounts created and established pursuant to the Indenture.

"Project Agreements" means: (a) the Concession Agreement, (b) the Design Build Contract, (c) the O&M Contract, (d) the Rolling Stock Supply Contract, and (e) with respect to the Design Build Contract, the Design Build Subcontract or with respect to the O&M Contract, the Interface Agreement.

"Project Collateral" means all "Collateral" referred to in each Security Document.

"Project Contractors" means the Design Build Contractor, the Rolling Stock Supplier and the O&M Contractor.

"Project Costs" means all costs and expenses incurred in connection with the design, development, construction, commissioning and financing of the Project, including, without limitation, the Early Work and the Phase 1 Work, including the contract price of the Design Build Contract, amounts payable under all construction, engineering, technical and other contracts entered into by the Company in connection with performing its obligations under the Concession Agreement and in accordance with the Financing Documents, all operation and maintenance costs incurred prior to the Last Revenue Service Commencement Date, financing costs, fees (including the Management Services Fee), interest during construction, initial working capital costs, funding of reserves, developer fees, Rolling Stock Expenditures, any taxes, assessments or governmental charges payable by the Sponsors or Affiliates of the Sponsors in connection with the Eagle P3 Project, fees payable by any Sponsor in connection with any Equity Letter of Credit and the LC Cost Reimbursement and breakage amounts in connection with a balance deficiency or early termination amount payable to the counterparty (other than the depositor) under any deposit agreement that remain unpaid after the due date thereof. For the avoidance of doubt, "Project Costs" shall also include reimbursement for the prior payment of any of the foregoing costs and expenses.

"Project Implementation Costs" means the total costs, expenses and fees that have been incurred by or on behalf of the Company in connection with the design, development, financing, construction, operation and maintenance of the Commuter Rail Network and the Rolling Stock, including funds drawn but not expended for the purpose of design, development, construction, operation and maintenance of the Commuter Rail Network and the Rolling Stock.

"Project Requirements" means the Final Project Design, the Scope Document, the Design, Construction and Rolling Stock Requirements, the O&M Specifications, the O&M Standards, the Third Party Agreements, all Permits, certain environmental, health, safety and security requirements as set forth in the Concession Agreement, all other Applicable Requirements, including the District Permits, terms of insurance policies and other requirements and obligations of the Company and/or the Design Build Contractor, as the case may be, specified or referred to in the Concession Agreement, the Design Build Contract or in other Contract Documents.

"Project Revenues" means the aggregate amount of any payments to the Company pursuant to the Concession Agreement (*provided* that Construction Payments shall only be considered Project Revenues on and after the Last Revenue Service Commencement Date), third party revenues, the interest on any Project Accounts received by the Company and all amounts payable to the Company (but not the District) as liquidated damages under contracts, in each case, to the extent the same relate to the Project; *provided* that such revenues shall exclude any insurance proceeds required to be deposited in an escrow account pursuant to the Concession Agreement.

"Project Schedule" means the schedule of Work prepared by the Company in accordance with the Concession Agreement.

"Project Site" means the site of or the right-of-way for the Eagle P3 Project.

"Project Third Party" means each counterparty to a Third Party Agreement.

"Projected Rectification Costs" mean the costs determined by a third party expert appointed jointly by the parties as described in "PAYMENTS UNDER THE CONCESSION AGREEMENT — Payment of Termination Amounts" herein.

"Promissory Notes" has the meaning given to it in clause (b) of the definition of Permitted Indebtedness.

"Promissory Note Obligations" means all obligations of the Company under the Promissory Notes.

"Promissory Note Obligees" means the holders of the Promissory Notes.

"Property" means all of Company's present and future right, title and interest in and to all of the following items but only to the extent such present and future right, title and interest is granted and made available by the District to the Company pursuant to the terms and conditions of the Concession Agreement:

(a) the Concession Agreement;

(b) the Commuter Rail Network;

(c) the Improvements;

(d) the Fixtures;

(e) the Personalty;

(f) the Rolling Stock;

(g) all current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefiting Company's interest in the Commuter Rail Network or the Improvements, or both, and all such rights-of-way, streets, alleys and roads which may have been or may in the future be vacated;

(h) all proceeds paid or to be paid to or on behalf of the Company by any insurer of the Commuter Rail Network, the Improvements, the Fixtures, the Personalty, the Collateral Agreement or any other part of the Property, whether or not the Company obtained the insurance pursuant to Beneficiary's requirement;

(i) all awards, payments and other compensation made or to be made to or on behalf of the Company by any municipal, state or federal authority with respect to the Company's interest in the Commuter Rail Network, the Improvements, the Fixtures, the Personalty, the Concession Agreement or any other part of the Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Company's interest in the Commuter Rail Network, the Improvements, the Fixtures, the Personalty or any other part of the Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;

(j) all contracts, options and other agreements to the extent assignable by the Company, for the sale of the Commuter Rail Network, the Improvements, the Fixtures, the Personalty, the Concession Agreement or any other part of the Property entered into by the Company now or in the future, including cash or securities deposited to secure performance by parties of their obligations thereunder;

(k) all proceeds from the conversion, voluntary or involuntary, of any of the above into cash or liquidated claims, and the right to collect such proceeds;

(l) all Rents and Leases;

(m) all earnings, royalties, accounts receivable, issues and profits from the Company's interest in the Commuter Rail Network, the Improvements, the Concession Agreement or any other part of the Property;

(n) all refunds or rebates of impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which the Deed of Trust is dated);

(o) all tenant security deposits which have not been forfeited by any tenant under any Lease;

(p) all names under or by which any of the above Property is operated or known, and all trademarks, trade names, and goodwill relating to any of the Property; and

(q) all minerals, crops, timber, trees, shrubs, plants, flowers and landscaping features or materials located on, under or above the Commuter Rail Network as of the date of the Leasehold Mortgages or thereafter.

"Proposer's Security" means the letter or letters of credit in the relevant form attached to the RFP (or otherwise in form and substance reasonably acceptable to the District) issued by a Qualifying Institution and/or cash collateral, in an aggregate amount equal to U.S.$25,000,000 for the benefit of the District.

"Punch List Items" means Work of a minor nature which does not affect beneficial occupation or safe use of the Commuter Rail Network or part thereof by the Company or members of the public and, where agreed with RTD, any other Work in connection with or related to a Commuter Rail Project which remains incomplete at the Revenue Service Commencement Date for such Commuter Rail Project and associated Commuter Rail Service.

"Qualified Substitute Concessionaire" means a person who:

(a) has the legal capacity, power and authority to become a party to, and perform the obligations of the Company under, the Concession Agreement;

(b) has the resources available to it (including committed financial resources) or is otherwise reasonably likely to have the ability to raise resources that are sufficient to enable it to perform the obligations of the Company under the Concession Agreement; and

(c) employs or subcontracts with Persons having the appropriate qualifications, experience and technical competence available to it that are sufficient to enable it to perform the obligations of the Company under the Concession Agreement.

"Qualifying Institution" means any insurance company or financial institution lawfully operating in the State of Colorado (or, with respect to the issuer of the O&M Letter of Credit, the State of New York) with a minimum credit rating of "A" from Standard & Poor's Rating Services, "A2" from Moody's Investors Service, Inc. and/or "A" from Fitch Ratings, Inc.

"Qualifying Insurer" means any insurer of recognized financial responsibility and admitted in the State of Colorado which holds a current policyholders alphabetic and financial size category rating of "A:VIII" or higher according to Best's Insurance Reports (or if not rated by Best's Insurance Reports, with a claims-paying ability rating from Standard & Poor's of "A" or higher).

"Quality Management Plan" is the Design Build Contractor's written quality control and quality assurance program for the Work, including the written procedures to implement such program and detailing how the Design Build Contractor will provide quality assurance and quality control for the Project, obtain samples for quality control

testing, perform tests for quality control, provide inspection and exercise management control to ensure that the Work conforms to the requirements of the Contract Documents.

"Railroad Agreement" means any agreement entered into between the District and any Heavy Rail Operator in relation to the Eagle P3 Project.

"Railroad Rehabilitation and Infrastructure Financing Program" means the federal program described in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement" herein.

"Reasonable Efforts" means all those steps in the power of the relevant Party that are capable of producing the desired result, being steps which a prudent, determined and reasonable person desiring to achieve that result would take; *provided* that, subject to its other express obligations under the Design Build Contract, the relevant Party shall not be required to expend funds except for those necessary to meet the reasonable costs reasonably incidental or ancillary to the steps to be taken by the relevant Party (including its reasonable travel expenses, correspondence costs and general overhead expenses).

"Rebate Fund" means the Rebate Fund established and created pursuant to the Indenture and described in "SECURITY FOR THE BONDS–Indenture" herein.

"Record Date" means the close of business on the last day of the month immediately preceding the month of each Interest Payment Date.

"Record Documents" mean detailed drawings, as-builts, reports, calculations, specifications, schedules, notes and other descriptive material in which the configuration of final design, assembly, construction, hardware and software of the Eagle P3 Project are documented.

"Records of Decision" or "ROD" means each of:

(a) the Record of Decision for East Corridor and Commuter Rail Maintenance Facility Dated November 6, 2009; and

(b) the Record of Decision for Gold Line and Commuter Rail Maintenance Facility Dated November 2, 2009.

"Redemption Account" means the Redemption Account of the Debt Service Fund created by and designated as such in the Indenture and described in "SECURITY FOR THE BONDS–Indenture" herein.

"Redemption Moneys" mean the money deposited with the Trustee to pay the Redemption Price of all the Bonds called for redemption.

"Redemption Price" means the amount due on a Bond on the date on which it is redeemed prior to maturity pursuant to the redemption provisions applicable to such Bond. Such term does not include the principal and interest due on the term Bonds on the dates such Bonds are to be redeemed in accordance with a mandatory redemption schedule set forth in the Indenture.

"Refinancing" means:

(a) any amendment, variation, novation, supplement or replacement of any Designated Credit Agreement;

(b) the grant of any waiver or consent, or the exercise of any similar right, under any Designated Credit Agreement;

(c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Designated Credit Agreement; or the creation or granting of any other form of benefit or interest in either the

Designated Credit Agreement; or the contracts, revenues or assets of the Company whether by way of security or otherwise but excluding any security agreements which constitute Designated Credit Agreements and any participations or transfers (whether by novation or otherwise) among Lenders only; or

(d) any other arrangement put in place by the Company or another Person that has an effect that is similar to any of (a)-(c) above or that has the effect of limiting the Company's ability to carry out any of (a)-(c) above.

"Reinstatement Amount" means an estimate of the cost to the Company to perform the Reinstatement Work in the proposed manner.

"Reinstatement Work" means the maintenance or other work of renewal, reconstruction, repair or reinstatement to be carried out by the Company in respect of the Concessionaire-operated Components prior to the Expiry Date in order to satisfy the Handover and Reinstatement Work Requirements.

"Release" means any new or historical spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, migrating, abandoning or discarding.

"Relevant Authority" means the government of the United States of America, the State of Colorado, the cities and counties within or forming part of the District and any other agency, or subdivision of any of the foregoing, including any federal, state, or municipal government, and any court, agency, special district, commission or other authority exercising executive, legislative, judicial, regulatory, administrative or taxing functions of, or pertaining to, the government of the United States of America, the State of Colorado or the cities and counties within or forming part of the District.

"Relevant Incident" means the damaging or destruction of any part of the Concessionaire-operated Components.

"Relief Event" means any of the following events or circumstances and any combination of the following events and circumstances:

(a) any delay in granting Vacant Possession of any part of any Site beyond the time limits specified in the Concession Agreement (but not including any delay in the provision of additional land required of the Company pursuant to the Concession Agreement), or granting of Vacant Possession subject to restrictions of use and/or right of entry permits in either case not specified in the description of Vacant Possession.

(b) any failure by a Utility Owner to (i) complete design work related to the relocation of any Utility for which the Utility Owner is responsible under and in accordance with the applicable Utility Relocation Agreement, (ii) cooperate in accordance with such applicable Utility Relocation Agreement as necessary to agree and execute a Work Order or (iii) remove and/or relocate any Utility required to be relocated by the applicable Utility Owner to the extent and in the manner shown on the Utilities Drawing within the designated time period for such Utility work, removal or relocation as set forth in the relevant Work Order, *provided* that, in each case, the Company has complied with the requirements set forth in the Concession Agreement;

(c) any failure by the District to remove and/or relocate any Utility required to be relocated by the District to the extent and in the manner shown on the Utility Drawings on or prior to the completion date for such Utility specified in a matrix as set forth in the Concession Agreement;

(d) (i) any failure by the District to provide the Company with Vacant Possession of the DUS Rail Segment Site in accordance with the Concession Agreement by the guaranteed DUS access date of May 1, 2014, (ii) any agreement by the District to or acknowledgment by the District of the occurrence of beneficial occupancy pursuant to the DUS Infrastructure Agreement prior to satisfaction of the requirements for beneficial occupancy as set forth therein or (iii) such requirements for Beneficial Occupancy are not satisfied by the guaranteed DUS access date of May 1, 2014;

(e) a dispute raised by a Project Third Party relating to the compliance of a Concessionaire Design Submittal with the requirements for such Concessionaire Design Submittal as set out in the Third Party Agreements to the extent that it is subsequently determined, in accordance with the procedures set out in the applicable Third Party Agreement, that the Concessionaire Design Submittals submitted to that Project Third Party does comply with the requirements for such Company Design Submittal as set out in the Third Party Agreements; *provided* that the Company shall only be entitled to relief in respect of the delay caused by such dispute to the extent such delay directly relates to the Company's obligations with respect to the Concessionaire Design Submittals;

(f) a failure by a Project Third Party to review and comment on any Company Design Submittal submitted by the Company in accordance with the time periods referred to in the Concession Agreement; *provided* that the extension of time to which the Company shall be entitled shall be limited to the delay directly caused by the failure of such Project Third Party to review and comment in accordance with the time periods set out in the Contract Data Requirements List and the Third Party Agreements to the extent such delay directly relates to the Company's obligations with respect to Concessionaire Design Submittals;

(g) any Unidentified Archaeological Remains discovered by the Company at any Site;

(h) any Unidentified Environmental Condition encountered by the Company at any Site;

(i) any Unidentified Geological Obstruction encountered by the Company at any Site;

(j) any Unidentified Endangered Species encountered by the Company at any Site;

(k) the implementation of a Change in accordance with the Concession Agreement to the extent provided in the Concession Agreement or the implementation by the Company of any betterment or alternative solution pursuant to a Work Order;

(l) any willful misleading of the Company as described in the Concession Agreement;

(m) a violation of Applicable Requirements by the District as agreed by the District or, if the District disputes the occurrence of a violation of Applicable Requirements by the District, as evidenced by a final unappealable ruling of court of law in a competent jurisdiction or of an arbitral tribunal in a binding arbitration (as the case may be), or otherwise than as contemplated in the Concession Agreement and/or required by the Applicable Requirements;

(n) a failure of the District to obtain for the Company the benefit of RTD Permits in accordance with the timetable agreed to between the District and the Company in accordance with the procedures set out in the Concession Agreement, but only to the extent that such failure is not caused by the Company's failure to make timely or proper applications, or the breach of or failure to comply with Applicable Requirements or the conditions attached to such RTD Permits;

(o) the discovery of any Unidentified Utility as described in the Concession Agreement;

(p) any change in voltage of the primary power supply drawn from the Utility transmission network as set forth in the Concession Agreement;

(q) (i) the District has ordered or deemed to have ordered the suspension of any part of the Work in accordance with the Concession Agreement, (ii) the District has ordered the suspension of any part of the Work in accordance with the Concession Agreement (other than as a result of the Company's failure to comply with the Concession Agreement) or (iii) a determination in accordance with the Dispute Resolution Procedures that the District has ordered the suspension of any part of the Work in violation of the requirements of the Concession Agreement;

(r) a determination in accordance with the Dispute Resolution Procedures relating to a Dispute under the Concession Agreement that the District conditioned approval (including by way of rejection) of the Contract

Data on comments and/or amendments that were not necessary for the Contract Data to comply with the applicable requirements of the Concession Agreement;

(s) a determination in accordance with the Dispute Resolution Procedures relating to a dispute under the Concession Agreement that a proposed amendment, modification, variation or waiver to the Design Build Contract or the O&M Contract, as applicable, was not a material amendment;

(t) a determination in accordance with the Dispute Resolution Procedures, relating to a Dispute under the Concession Agreement that the District's actions under that Agreement were attributable to or necessitated by any breach by the District of its obligations under the Concession Agreement;

(u) (i) the imposition by any Relevant Authority on the Company's possessory interest in the Eagle P3 Project of any ad valorem property tax or possessory interest property tax under the Laws of the State of Colorado or (ii) the imposition by any Relevant Authority of any sales or use tax on construction and building materials, equipment, improvements and other property (including tangible personal property) that will be integrated into the Eagle P3 Project and owned by the District (as, or as part of, without exclusion, the Commuter Rail Projects, DUS Systems, the CRMF and the Rolling Stock); but specifically excluding materials, equipment, improvements and other property (including tangible personal property) relating to the Eagle P3 Project that will be (A) owned by the Company, the Project Contractors or Subcontractors or (B) leased by the Company, the Project Contractors or Subcontractors from Persons other than the District;

(v) any failure by the District to comply with its obligations under Section 31.1 (*Rolling Stock Option*) under the Concession Agreement;

(w) any interruption or interference to the Work or the Commuter Rail Services caused by the procurement, design, construction, operation or maintenance of any Other RTD Project, including the procurement, design and construction of any Concessionaire-operated Expansion, in each case undertaken by or on behalf of the District (but only to the extent not undertaken by the Company), otherwise than as contemplated in the Concession Agreement and/or required by the Applicable Requirements;

(x) the issuance of any preliminary or permanent injunction or temporary restraining order or other similar order, legal restraint or prohibition by a Relevant Authority of competent jurisdiction under applicable Law, which issuance is solely as a result of the District's actions or omissions (and not the Company's actions or omissions), which injunction, order, restraint or prohibition materially affects the District's or the Company's performance under the Concession Agreement;

(y) the execution by the District of (i)(A) any Utility Relocation Agreement after the Final Proposal Due Date on terms not consistent with the copy of such agreement attached to the Concession Agreement; (B) any inter-governmental agreement after the Final Proposal Due Date on terms not consistent with the copy of such agreement attached in draft form in Annex 1 to the Concession Agreement; (C) any Railroad Agreement after the Final Proposal Due Date on terms not consistent with the copy of such Railroad Agreement attached in draft form to the Concession Agreement; or (D) any Railroad Agreement identified in the Concession Agreement after the Final Proposal Due Date on terms not consistent with the terms of the agreement or draft form of agreement referenced therein, as applicable; or (ii) any Third Party Agreement after the Final Proposal Due Date other than the agreements (including the agreements in draft form) attached to the Concession Agreement;

(z) the DUS as-built drawings reflect a design for the DUS Infrastructure that is materially different to the design set forth in the existing DUS Infrastructure Design Documents, *provided* that such difference does not result from (i) any Concessionaire Proposed Change or (ii) any DUS Infrastructure Design Documents accepted or deemed accepted by the Company in accordance with the Concession Agreement;

(aa) (i) (any failure by the District or any third party contractor acting on the District's behalf to complete any RTD Retained Environmental Work by the completion date for such Environmental Clean-up Work set forth in the relevant Environmental Condition Clean-up Report delivered by the Company to the District or (ii) any material interruption or interference with the Company's performance of its obligations under the Concession

Agreement caused by the District or any third party contractor acting on the District's behalf in performing any RTD Retained Environmental Work;

(bb) the approval of a Voluntary Clean-Up Application and Materials Management Plan by the Colorado Department of Public Health and Environment in form and substance materially different from the draft copy of such plan attached to the Concession Agreement; and

(cc) (i) the District does not increase the Maximum Annual Phase 1 Construction Payment Amounts in accordance with the Concession Agreement or (ii) the Company is unable to secure funds to finance the Phase 1 Excess Financing Amount within ninety (90) days after the delivery of a Phase 1 Excess Financing Request;

but, in each case, only to the extent that:

(i) such event or circumstance (and/or its effects and consequences on the Company and the Design Build Contractor for the purposes of the Design Build Contract) does not result from and is not contributed to by any breach by the Company of its obligations under the Concession Agreement (or for the purposes of the Design Build Contract, any breach by the Design Build Contractor of its obligations under the Design Build Contract or any of the other Contract Documents) or any of the other Project Agreements or any negligent act or omission of the Company or the Design Build Contractor, as applicable;

(ii) such event or circumstance has arisen notwithstanding the Company complying with its obligations under the Concession Agreement, and in accordance with its obligations under the Concession Agreement (for purposes of the Design Build Contract, notwithstanding the Design Build Contractor complying with its obligations under the Design Build Contract and in accordance therewith); and

(iii) the Company has complied with its obligations regarding mitigation in the case of a Relief Event or with respect to the Design Build Contract, the Design Build Contractor uses Reasonable Efforts to minimize and/or mitigate the consequences of such Relief Event (both in terms of delay and cost), which measures shall include (A) rearranging the order in which the Work is scheduled to be performed under the Project Schedule and (B) procuring that the Work be divided (or further divided) into components that can be undertaken separately and/or concurrently.

"Renewal Work" means any lifecycle maintenance, repair, renewal, reconstruction or replacement work of any portion or component of the Concessionaire-operated Components, as applicable, of a type that is not normally included as an annually recurring cost in commuter rail line maintenance and repair budgets.

"Renewal Work Account" is the account established by the O&M Contractor on or prior to the date occurring one (1) month prior to the first scheduled element of Renewal Work to be performed in accordance with the Renewal Work Budget and Schedule.

"Renewal Work Budget and Schedule" means the budget delivered by the O&M Contractor to the Company for Renewal Work costs (expressed in 2010 dollars) and the schedule for each element of Renewal Work to be completed in accordance with the O&M Contract during the Operating Period, including all Renewal Work relating to handover obligations.

"Renewal Work Payment" means the monthly payment by the Company based on the invoice submitted by the O&M Contractor for the fixed amount set out in the Renewal Work Budget and Schedule for that calendar month that may be adjusted to reflect any Modification to the Renewal Work Budget and Schedule resulting from amendments to the calculation of Service Payments pursuant to the partnering process described in the O&M Contract.

"Renewal Works Deficiency" means the difference between the face amount of the Renewal Works Letter of Credit required pursuant to the O&M Contract and the face amount of the Renewal Works Letter of Credit if the O&M Contractor fails to provide a Renewal Works Letter of Credit in the amount required pursuant to the O&M Contract.

"Renewal Works Letter of Credit" means the letter of credit provided by the O&M Contractor to the Company issued by a Qualifying Institution and in a form acceptable to the Company, with a stated expiration of not earlier than one year from the issuance date, in a stated amount equal to 100% of the amount calculated in accordance with the following: the amount equal to (a) the costs set forth in the Forecast Renewal Work Schedule for such year less (b) the costs set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars) less (c) the amount on deposit in the Renewal Work Account as at January 1 of such year, if a positive number, exceeds the greater of (i) $1,000,000 or (ii) ten percent (10%) of the cost of Renewal Works set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars).

"Renewal Works Reserve Account" means the Renewal Works Reserve Account created by and designated as such in the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Renewal Works Reserve Account*" herein.

"Rents" means all rents (whether from residential or nonresidential space), revenues and other income of Company's interest in the Commuter Rail Network or the Improvements payable to Company (excluding any rent payable by Company under the Concession Agreement), including parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Property, if any, whether now due, past due, or to become due, and deposits forfeited by tenants.

"Required Security Amount" means $22,659,628, adjusted annually during each year of the term beginning in calendar year 2011 by the percentage change in the Inflation Index from that for the immediately preceding calendar year.

"Reserved Rights" means amounts payable to the Issuer under certain sections of the Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed).

"Restoration Plan" means the plan prepared by the Company for the carrying out of the work necessary to repair, reinstate or replace the parts of the Affected Portion which have been damaged or destroyed.

"Restoration Work" means the work necessary to repair, reinstate or replace the parts of the Affected Portion which have been damaged or destroyed.

"Restricted Payment Conditions" means, on or with effect from any applicable date of determination on or after December 31, 2016, that:

(a) the amount on deposit in the Debt Service Reserve Account is sufficient to satisfy the Debt Service Reserve Requirement, and the Renewal Works Deficiency is on deposit in the Renewal Works Reserve Account;

(b) the Total DSCR as of the most recent Calculation Date is equal to or greater than 1.10:1.00;

(c) the Loan Life Coverage Ratio as of the most recent Calculation Date is equal to or greater than 1.20:1.00;

(d) no Event of Default or Potential Event of Default pursuant to the terms of the Bonds, and no Concessionaire Termination Event pursuant to the terms of the Concession Agreement, has occurred and is continuing or would exist as a result of the making of the payment;

(e) the Last Revenue Service Commencement Date has been achieved; and

(f) if a Force Majeure Event has occurred and is continuing, the District has not failed to pay and has not indicated in writing to the Company that it has no obligation to pay the Service Payment under Section 39.4 or Section 39.5 of the Concession Agreement.

"Revenue Account" means the Revenue Account created and designated as such by the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Revenue Account*" herein.

"Revenue Account Transfer Certificate" means the Revenue Account Transfer Certificate substantially in the form of the Revenue Account Transfer Certificate attached to the Lockbox Account Agreement and described in "ACCOUNTS AND FLOW OF FUNDS–Description of Lockbox Project Accounts Under the Lockbox Account Agreement–*Revenue Account*" herein.

"Revenue Service Commencement Certificate" means, with respect to each Commuter Rail Service, the "Revenue Service Commencement Certificate" issued by the Independent Engineer pursuant to the Concession Agreement certifying that the Company has demonstrated to the Independent Engineer's satisfaction that the Revenue Service Commencement Requirements have been satisfied.

"Revenue Service Commencement Date" means, with respect to each Commuter Rail Service, the date on which the Revenue Service Commencement Requirements for such Commuter Rail Service and the relevant Commuter Rail Project have been satisfied by such Commuter Rail Service and the relevant Commuter Rail Project, as evidenced by the issuance of the Revenue Service Commencement Certificate for such Commuter Rail Service.

"Revenue Service Commencement Requirements" mean the following:

(a) except with respect to certain Punch List Items identified in the Concession Agreement (or with respect to the Design Build Contract, the items on the Concessionaire's Punch List), such Commuter Rail Project (excluding any of the automated fare system equipment for the Commuter Rail Projects as described in the Concession Agreement related thereto) has been completed in accordance with the provisions of the Concession Agreement, the Project Requirements and Good Industry Practice (or for purposes of the Design Build Contract, the Design Build Contract, the other Contract Documents, the Project Requirements and Good Industry Practice) to ensure that the Work, such Commuter Rail Project and each part of them are completed and operate in compliance with the Project Requirements;

(b) the process and procedures set out in the Scope Document for the testing, inspection and verification of the Work has been carried out (including demonstrating that each element of the Concession Equipment forming part of such Commuter Rail Project operates as intended) have been carried out;

(c) the System Performance Demonstration for the relevant Commuter Rail Service has been fully carried out;

(d) during the System Performance Demonstration, the Availability Ratio (calculated on a daily basis for the duration of the relevant period) for such Commuter Rail Service is at least 95% for a consecutive 21-day period and at least 97% for a consecutive seven-day period within such 21-day period;

(e) all Permits required to be obtained (or for purposes of the Design Build Contract, required to be obtained by the Design Build Contractor pursuant to the Design Build Contract) for the commencement of operations of such Commuter Rail Project and such Commuter Rail Service have been obtained in final form and are not subject to appeal;

(f) all required Concessionaire Design Submittals (or for the purposes of the Design Build Contract, Contractor Design Submittals) and Contract Data relating to the operations and maintenance of such Commuter Rail Project have been submitted to, and, if required, approved by, as the case may be, the District, the Project Third Parties and the Relevant Authorities (as applicable) in accordance with the Scope Document and the Contract Data Requirements List;

(g) the procedure for the training and certification of operating and maintenance personnel and staff with respect to the operation and maintenance of the Concessionaire-operated Components has been completed in accordance with the requirements set out in the O&M Specifications;

(h) the Company (or for purposes of the Design Build Contract, the Design Build Contractor) has fully implemented the Safety and Security Certification Plan with respect to such Commuter Rail Project and has submitted to the District (following the Company's review thereof), in form and substance satisfactory to the District and the appropriate Relevant Authorities, the relevant certificates of compliance and all other safety and security certification certificates or assessments with respect to such Commuter Rail Project (including the FHLA), together with all supporting documents;

(i) the Final Threat and Vulnerability Analysis has been completed by the Company (or for purposes of the Design Build Contract, the Design Build Contractor) and approved by the FTA and the FRA;

(j) all deficiencies or noncompliance (other than Punch List Items) identified by the District following any audit carried out pursuant to the Design Build Contract have been corrected;

(k) if the District has delivered a Phase 2 Rolling Stock Termination Notice in accordance with the Concession Agreement, the Company (or for purposes of the Design Build Contract, the Design Build Contractor) has complied with its obligations set forth in the Design Build Contract; and

(l) only with respect to the Design Build Contract, the Revenue Service Commencement Requirements have been satisfied under the Concession Agreement as evidenced by the issuance by the Independent Engineer of the Revenue Service Commencement Certificate.

"Revenue Service Deadline Date" means (i) if the Phase 2 Notice to Proceed is issued, January 1, 2018, as such date may be extended in accordance with the terms of the Concession Agreement and/or the Design Build Contract, as the case may be, and (ii) if the Phase 2 Notice to Proceed is not issued, July 29, 2017.

"Revenue Service Target Date" means: (a) with respect to the East Corridor Service, January 29, 2016; (b) following the Phase 2 Effective Date with respect to the Gold Line Service, July 1, 2016; and (c) following the Phase 2 Effective Date, with respect to the Northwest Rail Electrified Segment Service, March 31, 2016; in each case as such Revenue Service Target Date may be extended in accordance with the terms of the Design Build Contract.

"Revised Baseline Schedule" means the schedule submitted by the Company on October 1 of each year and otherwise at the District's request showing actual progress to date on all activities in the Current Baseline Schedule.

"RFP" means the Request for Proposals No. 18FH012 issued by the District on September 30, 2009 (as subsequently amended by addenda thereto).

"Rolling Stock" means the Phase 1 Rolling Stock and the Phase 2 Rolling Stock, collectively.

"Rolling Stock Availability" means the availability of the Rolling Stock for the provision of the Commuter Rail Services as determined in accordance with the Concession Agreement.

"Rolling Stock Expenditures" means any expenditure required to be funded by the Company pursuant to its Rolling Stock repair and replacement obligations under the Concession Agreement.

"Rolling Stock Option" means the option in which the District may require the Company to purchase from the Rolling Stock Supplier and deliver to and commission for the District the Rolling Stock Optional Cars no less than eight and no more than 24 additional Cars.

"Rolling Stock Option Cars" are the additional Rolling Stock (no less than eight (8) and no more than twenty-four (24)) that may be purchased by the District according to the Rolling Stock Option.

"Rolling Stock Supply Contract" means the contract for the supply of the Rolling Stock to be entered into between the Design Build Contractor and the Rolling Stock Supplier.

"Rolling Stock Supply Contractor" or *"Rolling Stock Supplier"* means Hyundai Rotem USA Corp. and its successors, assigns and replacements under the Rolling Stock Supply Contract.

"Rolling Stock Warranty Period" means each one of the following: a warranty period of 15 years from Final Acceptance for Car Structure and truck frame, and for everything else that is part of the work, a warranty period of three years from Final Acceptance.

"RTD Adopted Budget" means the "budget" for a "budget year" (each term as defined in the Local Government Budget Law of Colorado) prepared and adopted by the Board in accordance with the Local Government Budget Law of Colorado (C.R.S. 29-1-101 *et seq*.).

"RTD Appropriation Obligations" means any and all payment obligations of the District under and pursuant to the Concession Agreement (except for the obligation to pay the TABOR Portion and any Additional TABOR Portion).

"RTD Default Amount" means the aggregate, calculated at the Termination Date or such date as required under the Concession Agreement, as applicable, of:

(a) the Lenders' Liabilities as at that date;

(b) an amount equal to the Equity Market Value less the documented costs (including professional fees) expended to conduct the independent third party expert appraisal described in the definition of Equity Market Value;

(c) any Subcontractor Breakage Costs; and

(d) any reasonable and verifiable costs and expenses of enforcement or protection or preservation of security properly and incurred by the Lenders from the Termination Date to the date of payment by the District.

"RTD Permits" means each of the permits, the conditional letter of map revision and the letter of map revision, copies of which, or applications for which, are attached as Annexes 1, 2, 3 and 4 to Attachment 5 (RTD Permits) of the Concession Agreement.

"RTD Pledged Revenues" means (a) any RTD Sales Tax Revenues remaining on deposit each month in the Sales Tax (0.6%) Fund and the Sales Tax Increase (0.4%) Fund with the RTD Trustee pursuant to the Senior RTD Documents after all applications, deposits and payments required to be made from the Sales Tax (0.6%) Fund and the Sales Tax Increase (0.4%) Fund under the Senior RTD Documents, have been made, but prior to the distribution of any such remaining amounts by the RTD Trustee pursuant to the DUSPA/RTD Funding Agreement or to the District and (b) Additional Sales Tax revenues that have been pledged by the District (in its sole discretion) to secure the payment of Senior RTD Debt in respect of which the District has provided written notice to the Company and the RTD Trustee and that are available to the District following the application of such revenues in accordance with the terms of any Senior RTD Documents pursuant to which such Additional Sales Tax revenues are pledged to pay Senior RTD Debt, but prior to the distribution of such Additional Sales Tax revenues by the RTD Trustee pursuant to the DUSPA/RTD Funding Agreement or to the District.

"RTD Pricing Conditions" mean the Incurred Costs claimed by the Company from the District that have been incurred in compliance with 48 CFR Part 31 (Federal Acquisition Regulation Contract Cost Principles and Procedures) (the *FAR*) and FTA Circular 4220.1F Part VI (Third Party Contracting Guidance; Procedural Guidance for Open Market Procurements) that are in accordance with the Concession Agreement.

"RTD Proposed Change" means, with respect to the Concession Agreement, any change or alteration requested in writing by the District to the Company to (a) the Final Project Design, the Scope Document or the O&M Specifications, (b) require the Company to operate and maintain any Concessionaire-operated Expansion, (c) require the Company as part of a regularly scheduled or occurring service to dispatch Heavy Rail Movements on a portion of the Commuter Rail Network other than the DUS Rail Segment, or (d) any element of the Work, as

provided in the Concession Agreement and submitted by the District to the Company, which, during the Design Build Period, the Company is required promptly to forward to the Design Build Contractor in accordance with the Design Build Contract and, during the Operating Period, the Company is required to promptly forward to the O&M Contractor in accordance with the O&M Contract.

"RTD Retained Environmental Work" means Environmental Clean-up Work that the District elects to carry out, or elects to cause a third party contractor to carry out, pursuant to Section 12.2(i) of the Concession Agreement.

"RTD Sales Tax" means the sales tax levied uniformly throughout the District Sales Tax Area at a rate of 1.0% (consisting of a sales tax levied at the rate of 0.6% and a sales tax increase levied at the rate of 0.4% that was approved at the 2004 election to finance the FasTracks Plan) upon every transaction or other incident with respect to which a sales tax is levied by the State of Colorado pursuant to the provisions of Section 39 26-101 *et seq*., Colorado Revised Statutes, and pursuant to the RTD Act.

"RTD Sales Tax Revenues" means the proceeds received by the District, or by the RTD Trustee as assignee of the District, from the levy and collection of the Sales Tax and any Additional Sales Tax revenues pledged as RTD Pledged Revenues.

"RTD Termination Events" means any of the following events or circumstances:

(a) other than as a result of any failure to appropriate (by inclusion in its annual or any interim budget) monies for the purposes of RTD Appropriation Obligations as described in the Concession Agreement, the District fails to pay any undisputed amount within 10 days after the due date;

(b) the Board fails, by the end of a Fiscal Year, to make an appropriation (by inclusion in its annual or any interim budget) of monies for the purposes of RTD Appropriation Obligations (other than any Applicable Termination Amount) pursuant to the Concession Agreement in an amount sufficient to fund the RTD Appropriation Obligations (other than any Applicable Termination Amount) estimated to fall due, or that have fallen due, during such Fiscal Year.

(c) a Discriminatory Change in Law or a Change in Law exceeding any of the thresholds set out in the Concession Agreement, but only where the District is not providing compensation to the Company to compensate it for the effects of the Discriminatory Change in Law or Change in Law, as required by the terms of the Concession Agreement; and

(d) the obligations of the District under the Concession Agreement are or become illegal, unenforceable, void or voidable, and as a result, the District is or becomes unable to perform its material obligations under the Concession Agreement.

"RTD Trustee" means The Bank of New York Mellon Trust Company, N.A., as trustee, or any successor trustee under the Senior RTD Documents.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Companies, Inc., and any successor to its rating agency business.

"SAFETEA-LU" means the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (2005).

"Sales Tax" means RTD Sales Tax.

"Sales Tax (0.6%) Fund" means the "Regional Transportation District Sales Tax (0.6%) Fund" created in the 2006 FasTracks Indenture and maintained by the RTD Trustee.

"Sales Tax Increase (0.4%) Fund" means the "Regional Transportation District Sales Tax Increase (0.4%) Fund" created in the 2006 FasTracks Indenture and maintained by the RTD Trustee.

"Sales Tax Funds" means collectively the Sales Tax (0.6%) Fund and the Sales Tax Increase (0.4%) Fund.

"Schedule of Values" means the list of items on the WBS Pricing Form with their individual budgets as provided in the Concessionaire's Proposal and as updated from time to time by the Company (a) to incorporate budget allocation details for sub-items identified in the Final Design Submittals and Revised Baseline Schedules (*provided* that no such update shall increase the total value of assets specified on the WBS Pricing Form or the total Earned Value for the purpose of calculating Construction Payments under the Concession Agreement), (b) in accordance with the Concession Agreement or (c) as otherwise agreed between the Parties.

"Scope Document" means the document describing the Design, Construction and Rolling Stock Requirements of the Concession Agreement.

"Scope of Services" means any and all services performed by the Design Build Contractor that are required or are appropriate in connection with the operations and maintenance of the Project, including all obligations set forth in the O&M Contract in accordance with the provisions of the O&M Contract, including the O&M Specifications, and shall provide all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to perform such services.

"Secured Accounts" mean the Account Collateral and all accounts and general intangibles (including payment intangibles) of the Company constituting a right to the payment of money, whether or not earned by performance, including all moneys due and to become due to the Company in repayment of any loans or advances, in payment for goods (including Inventory and Equipment) sold or leased or for services rendered, in payment of tax refunds, insurance refund claims and all other insurance claims and proceeds, tort claims, securities and other investment property.

"Secured Parties" means the Trustee, the Owners of the Series 2010 Bonds and the Owners of the Additional Parity Bonds, if any.

"Securities" means bonds, notes, certificates, warrants, leases, contracts or other financial obligations or securities issued or executed by the District and payable in whole or in part from a lien on the RTD Sales Tax Revenues.

"Securities Accounts" means the Lockbox Project Accounts.

"Securities Act" means the federal Securities Act of 1933.

"Securities Intermediary" means The Bank of New York Mellon Trust Company, N.A. in its capacity as securities intermediary on behalf of the Secured Parties under the Lockbox Account Agreement.

"Security Agreement" means that certain Security Agreement to be entered into by and between the Company and the Trustee.

"Security Documents" means the Security Agreement, the Leasehold Mortgages, the Pledge Agreement, the Equity Contribution Agreement, the Lockbox Account Agreement, the Direct Agreements and each other document or instrument from time to time pursuant to which a lien or security interest is granted or perfected in favor of the Trustee by the Company in respect of the Financing Documents for the benefit of the Secured Parties.

"Security Interest" means: (a) a mortgage, pledge, lien charge, assignment, hypothecation, security interest, title retention arrangement, preferential right, trust arrangement or other arrangement having the same or equivalent commercial effect as a grant of security; or (b) any agreement to create or give any arrangement referred to in clause (a) of this definition.

"Senior Credit Facility Obligations" means any Credit Facility Obligations payable from all or a portion of the RTD Sales Tax Revenues on a parity with the Senior RTD Debt.

"Senior Financial Products Agreement" means any Financial Products Agreement pursuant to which (a) Financial Products Payments are payable from a lien on all or a portion of the RTD Sales Tax Revenues on a parity with the Senior RTD Debt and (b) Financial Products Termination Payments are payable from a lien on all or a portion of the RTD Sales Tax Revenues which is subordinate to the TABOR Portions and the Additional TABOR Portions.

"Senior RTD Debt" means all bonds, notes, certificates, warrants, leases, contracts or other financial obligations or securities issued or executed by the District and secured in whole or in part by a lien on the RTD Sales Tax Revenues that is senior or superior to the lien thereon created pursuant to the sections of the Concession Agreement relating to the TABOR Portion and compensation following termination of the Concession Agreement.

"Senior RTD Debt Trustee" means The Bank of New York Mellon Trust Company, N.A., as trustee for the benefit, respectively, of the owners of both the 0.6% Senior Debt and the FasTracks Bonds.

"Senior RTD Documents" means, collectively: (a) Resolution No. 9, Series 1977 of RTD, as supplemented by the following resolutions of RTD: (i) Resolution No. 13, Series 1985, (ii) Resolution No. 2, Series 1988, (iii) Resolution No. 6, Series 1990, (iv) Resolution No. 5, Series of 1992, (v) Resolution No. 9, Series of 1993, (vi) Resolution No. 14, Series of 1997, (vii) Resolution No. 20, Series of 2000, (viii) Resolution No. 13, Series of 2001, (ix) Resolution No. 24, Series of 2001, (x) Resolution No. 26, Series of 2002, (xi) Resolution No. 6, Series of 2003, (xii) Resolution No. 04, Series of 2004, (xiii) Resolution No. 01, Series of 2005, (xiv) Resolution No. 003, Series of 2007, (xv) Resolution No. 04, Series of 2008, and (xvi) Resolution No. 28, Series of 2009; (b) an Indenture between the District and the RTD Trustee, successor in interest to BNY Western Trust Company, as Trustee, dated August 1, 2001, as amended, (c) the 2006 FasTracks Indenture and (d) the 2007 FasTracks Indenture, in each case (a), (b), (c) and (d) as such resolutions and indentures may be amended or supplemented from time to time, and any other resolutions, indentures of trust, leases, contracts, obligations or other agreements which may be entered into by the District in the future to incur, issue or secure other Senior RTD Debt.

"Series 2010 Bonds" mean the Regional Transportation District (Colorado) Tax-Exempt Private Activity Revenue Bonds (Denver Transit Partners Eagle P3 Project), Series 2010.

"Series 2010 Bonds Sub-Account" means the Series 2010 Bonds Sub-Account created by and designated as such in the Indenture.

"Series 2010 Interest Sub-Account" is the interest sub-account with respect to the Series 2010 Bonds established within the Revenue Account.

"Series 2010 Issuer Loan Agreement" means the Loan Agreement.

"Series 2010 Loan" means the loan made by the Issuer to the Company on the Closing Date in an amount equal to proceeds of the Series 2010 Loan pursuant to the Series 2010 Loan Agreement.

"Series 2010 Principal Sub-Account" is the principal sub-account with respect to the Series 2010 Bonds established within the Revenue Account.

"Service Payments" means the payment payable by the District to the Company as determined in accordance with the Concession Agreement and described in "PAYMENTS UNDER THE CONCESSION AGREEMENT—Service Payments."

"Service Task Orders" or *"STOs"* are orders issued by the Company if the standards set out in the O&M Specifications of the Concession Agreement are not met.

"Services" means any and all services performed by the O&M Contractor that are required or are appropriate in connection with the operations and maintenance of the Project, including all obligations set forth in the O&M Contract, in accordance with the provisions of the O&M Contract, including the O&M Specifications, with respect to which the O&M Contractor will provide all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to perform such services.

"Shareholder" means a holder of any membership interest, or any other security giving the right to subscribe for or convert into a membership interest, in the Company.

"Shareholder Loans" means, at any time, any subordinated debt instruments entered into by the Company with its Affiliates pursuant to a subordination agreement (or other agreement containing subordination terms).

"Sites" means, collectively, (a) the East Corridor Site and the CRMF Site, (b) the Gold Line Site and the Northwest Rail Electrified Segment Site and (c) following the Actual DUS Access Date, the DUS Rail Segment Site, and each of (a), (b) and (c), individually, a "Site."

"Special Events Adjustments" means the adjustment pursuant to which the District compensates the Company for the provision of commuter rail revenue service in connection with special events implemented by the Company in agreement with the District in accordance with the Concession Agreement.

"Special Record Date" means a special date fixed to determine the names and addresses of Owners of Bonds for purposes of paying defaulted interest on Bonds in accordance with the Indenture.

"Specified Requirements" means certain requirements as set forth in the Concession Agreement with which the Eagle P3 Project must comply and in accordance with which the Company must perform its obligations and (where relevant) must require each Project Contractor and their respective Subcontractors to perform their respective obligations under the Concession Agreement, the other Project Agreements and the Subcontracts.

"Sponsors" means Fluor and Macquarie Group Limited ("Macquarie") and each of their respective successors and assigns; provided that, for the avoidance of doubt, if Macquarie has assigned an indirect 45% membership interest in the Borrower to an LBG Associate, such LBG Associate shall be deemed to be a Sponsor, and if Macquarie has assigned an indirect 45% membership interest in the Borrower to a JL Associate, such JL Associate shall be deemed to be a Sponsor, and if Macquarie has assigned its collective 90% indirect membership interest in the Borrower to an LBG Associate and a JL Associate, Macquarie shall not be deemed to be a Sponsor.

"State" means the state of Colorado.

"Station Availability" is a part of the Availability Ratio as defined in "PRINCIPAL PROJECT AGREEMENTS–Concession Agreement" herein.

"STOP Points" mean the assessments against the Company for failure to achieve specified levels of Availability (train and station availability and on-time performance) as discussed in "PRINCIPAL PROJECT AGREEMENTS—Interface Agreement" herein.

"Subcontract" means any contract (at any tier) entered into by the Company, a Project Contractor or a Subcontractor with one or more third parties directly in connection with the carrying out of the Work or the operation or maintenance of the Concessionaire-operated Components or any of the Company's other obligations under the Concession Agreement and the other Project Agreements, as amended or replaced from time to time in accordance with the Concession Agreement.

"Subcontractor" means:

(a) with respect to the Concession Agreement, any third party, other than the Concessionaire or the Project Contractors, that enters into a Subcontract (including the Material Subcontractors); or

(b) with respect to the Design Build Contract and the O&M Contract, a vendor, supplier, materialman, consultant or subcontractor of any tier providing equipment, materials or services directly or indirectly to the Design Build Contractor in connection with the Work or to the O&M Contractor in connection with the Services, as the case may be.

"Subcontractor Breakage Costs" means Losses that have been or will be reasonably and properly incurred by the Company under a Project Agreement as a direct result of the termination of the Agreement (and which shall not include lost profit or lost opportunity), but only to the extent that:

(a) the Losses are incurred in connection with the Eagle P3 Project and in respect of the provision of services or the completion of Work required to be provided or carried out, including:

(i) any materials or goods ordered or Subcontracts placed that cannot be cancelled without such Losses being incurred;

(ii) any expenditure incurred in anticipation of the provision of services or the completion of Work in the future; and

(iii) the cost of demobilization including the cost of any relocation of the Equipment;

(b) the Losses are incurred under arrangements and/or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms; and

(c) the Company and the relevant Project Contractor or Subcontractor have each used their Reasonable Efforts to mitigate the Losses.

"Subordinate Credit Facility Obligations" means any Credit Facility Obligations payable in whole or in part from the RTD Sales Tax Revenues and having a lien on all or any portion of the RTD Sales Tax Revenues which is subordinate to the lien thereon of the TABOR Portions and the Additional TABOR Portions.

"Subordinated Debt" means at any time any subordinated debt instruments entered into by the Company (other than Shareholder Loans) pursuant to a subordination agreement (or other agreement containing subordination terms) and which have been verified in advance in writing by the District in accordance with the Concession Agreement as consistent in all material respects with the Financial Model, including with respect to the assumptions related thereto.

"Subordinate Financial Products Agreement" means any Financial Products Agreement pursuant to which Financial Products Payments are payable from a lien on all or any portion of the RTD Sales Tax Revenues that is subordinate to the lien thereon of the TABOR Portions and the Additional TABOR Portions. Any Financial Products Termination Payment required under any Subordinate Financial Products Agreement shall have a lien on all or any portion of the RTD Sales Tax Revenues that is subordinate to the lien thereon of the TABOR Portions and the Additional TABOR Portions.

"Subordinate Lien Bonds" means any Securities payable in whole or in part from the RTD Sales Tax Revenues and having a lien on all or any portion of the RTD Sales Tax Revenues which is subordinate to the lien thereon of the TABOR Portions and the Additional TABOR Portions but does not include any Credit Facility Obligations or Financial Products Agreements relating to any such Subordinate Lien Bonds.

"Subordinate Lien Sales Tax Revenue Bond" means the revenue bonds under the FasTracks Indenture.

"Subsidiary" or *"Subsidiaries"* means any corporation, limited liability company or other entity of which more than 50% of the outstanding stock or comparable equity interests entitled to vote in the election of the board of directors or similar governing body of such entity is directly or indirectly owned by the Company, by one or more Subsidiaries or by the Company and one or more Subsidiaries.

"Supplemental Act" means the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended.

"Supplemental Indenture" means any indenture supplementing or amending the Indenture that is adopted pursuant to the Indenture.

"TABOR" means the Colorado Taxpayer's Bill of Rights.

"TABOR Payment Instructions" mean the written instructions from the District to the Senior RTD Debt Trustee setting forth the priority and mechanics for payments of the TABOR Portion from the RTD Sales Tax Revenues.

"TABOR Portion" means, for each calendar year, the amount in Base Rate Dollars identified as "TABOR Portion TPn" in Table 4 of Part H (TABOR Secured Payments) in Attachment 11 (Service Payments) to the Concession Agreement.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

"Technical Advisor" means Arup, as the Lenders' technical advisor, under the Transaction Documents or any replacement thereof.

"Technical Advisor Certificate" means the Technical Advisor Certificate substantially in the form attached to the Indenture and/or the Lockbox Account Agreement.

"Technical Advisor Report" means the report by the Technical Advisor which reviews and assesses the technical requirements and standards set forth in the Concession Agreement and the pass-through of the design and construction obligations to the Design Build Contractor.

"Technical Panel" means the Technical Panel to which Disputes of a technical nature are referred in accordance with the Concession Agreement.

"Temporary Work" means all temporary structures and installations required for the performance of the Work and the Early Work, including fences, roads, parking, buildings, staging and storage areas.

"Termination Compensation" means any of any of the following to be paid pursuant to the Concession Agreement: RTD Default Amount, Concessionaire Default Amount or FM Termination Amount.

"Termination Date" means (a) with respect to the Financing Documents, the date when all Bond Obligations to be paid or performed by the Company have been indefeasibly paid and performed in full; or (b) with respect to the Concession Agreement, the date on which the Concession Agreement is terminated pursuant to its terms.

"Third Party Agreements" means the Inter-Governmental Agreements, the Utility Relocation Agreements and the Railroad Agreements.

"Total Debt Service Coverage Ratio" or *"Total DSCR"* means for any 12-month period ending on a Calculation Date (or, prior to the first anniversary of the Last Revenue Service Commencement Date, for any shorter period from such Revenue Service Commencement Date annualized for a 12-month period ending on such Calculation Date) or on a 12-month forward-looking basis from such Calculation Date, if applicable, the ratio of A divided by B where:

A = the Company's Free Cash Flow for such period; and

B = the payment of all scheduled principal and interest on the Bonds during such period.

"Total Equity Amount" means the amount of equity required, such that the debt-to-equity ratio based upon the principal amount of the Series 2010 Bonds after giving effect to the issuance of the Series 2010 Bonds and all drawings under the Equity Contribution Agreement shall be no more than 88:12 on the fifth anniversary of the Closing Date.

"Total Equity Contributions" means the total amount of Equity Contributions each Sponsor is obligated to provide pursuant to the Equity Contribution Agreement.

"Traction Power" means power supplied by the traction substations to the Traction Electrification System for the Commuter Rail Network expressed in megawatt-hours.

"Transaction Documents" means the Material Project Contracts and the Financing Documents.

"Transfer Date" means the third Business Day prior to the 15th calendar day of each month.

"Treasury Regulation" means the temporary, proposed or final federal income tax regulations promulgated by the U.S. Department of the Treasury, together with the other published written guidance thereof as applicable to the Bonds under the Code.

"Trust Estate" means the property and rights granted to the Trustee pursuant to the Indenture and described in "SECURITY FOR THE BONDS—Indenture—Trust Estate" herein.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., as Trustee, pursuant to the Indenture.

"Trustee Enforcement Notice and Direction" means the notice delivered by the Trustee to the Account Bank setting forth actions to be taken upon an event of default under the Financing Documents and as described in "ACCOUNTS AND FLOW OF FUNDS–Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default" herein.

"Trustee Representative" means any officer of the Trustee assigned to the corporate trust department or any other officer of the Trustee customarily performing functions similar to those performed by any such officer, with respect to matters relating to the administration of the Financing Documents to which the Trustee is a party.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York (or the Uniform Commercial Code of any other jurisdiction to the extent applicable).

"Trustee's Instructions" means the written instructions provided by the District to the RTD Trustee (with a copy to the Company) in the form attached to the Concession Agreement upon the satisfaction of each of the Phase 1 Conditions Precedent.

"Underwriters" means Barclays Capital, Inc. and Merrill Lynch, Pierce Fenner & Smith Incorporated.

"Unidentified Archaeological Remains" means any archaeological remains that existed on a Site prior to the Final Proposal Due Date, excluding any such archeological remains that were known to the Company or the Design Build Contractor on the Final Proposal Due Date, as applicable, or that could reasonably have been identified by an appropriately qualified and experienced contractor or engineer exercising due care and skill and Good Industry Practice in the same or equivalent circumstances, including through review and analysis of the Records of Decision and the NWES Environmental Evaluation and of the investigations and assumptions set forth therein.

"Unidentified Endangered Species" means any endangered species that is found on a Site, the continual or habitual presence of which was not identified or described in the Records of Decision or NWES Environmental Evaluation, excluding in each case any such endangered species that was known by the Company or the Design Build Contractor, as applicable, to exist habitually and continuously on such Site on May 14, 2010 or that could

reasonably be expected to be found temporarily, continually or habitually on such Site based on the date reported in the Records of Decision or the NWES Environmental Evaluation.

"Unidentified Environmental Condition" means any Environmental Condition that existed on a Site prior to the date on which the District delivered Vacant Possession of such Site to the Company and that (a) was not identified or was incorrectly identified or described in certain environmental reports listed in the Concession Agreement or (b) manifests itself in a new location not identified or anticipated in such environmental reports, and in each case (a) and (b) excluding any such Environmental Condition that could reasonably have been identified or discovered (or anticipated in the case of such condition that manifested itself in a location not identified or anticipated in such environmental reports) by an appropriately qualified and experienced contractor or engineer exercising due care and skill and Good Industry Practice in the same or equivalent circumstances, including through review and analysis of such environmental reports and the investigations and assumptions on the basis of which such environmental reports were prepared.

"Unidentified Geological Obstruction" means any geological obstruction which disrupts the progress of the Work that existed prior to the Final Proposal Due Date and that, with respect to subsurface or latent conditions at the boring holes that were identified in certain geotechnical reports listed in the Concession Agreement, differs in a material respect from the conditions for such holes described in such geotechnical reports, excluding any such geological obstruction that could reasonably have been identified or discovered by an appropriately qualified and experienced contractor or engineer exercising due care and skill and Good Industry Practice in the same or equivalent circumstances, including through review and analysis of such geotechnical reports and the investigations and assumptions on the basis of which the geotechnical reports were prepared.

"Unidentified Utility" means any Utility present on any Site that was not identified or was incorrectly shown, identified or described in the utility data set forth in the Concession Agreement, in each case excluding any Utility that:

(a) is a Utility required to be relocated by the District in accordance with the Concession Agreement;

(b) was installed on a Site after the Company took Vacant Possession of such Site;

(c) is a "service line," which for the purposes of this definition shall mean any Utility line, the function of which is to connect the common source of supply or service to an individual customer's service; or

(d) could reasonably have been identified or discovered by an appropriately qualified and experienced contractor or engineer exercising due care and skill and Good Industry Practice in the same or equivalent circumstances, including through review and analysis of the utility data set forth in the Concession Agreement and the investigations and assumptions on the basis of which such utility data was prepared.

"Uninsurable Risk" means a risk in respect of which either:

(a) insurance is not available to persons engaged in the same or substantially the same business as the Company in the insurance market of the United States of America from time to time; or

(b) the premium payable for insuring that risk is at such a level that the risk is not generally being insured against by persons engaged in the same or substantially the same business as the Company in the insurance market in the United States of America from time to time.

"UP Site" means any Site or part thereof, the rights to which the District will acquire pursuant to the specified agreements entered or to be entered into by the District and the Union Pacific Corporation (including its Affiliates) after the date of the Concession Agreement.

"Utility" means any public or private utility and facility, including any facility relating to electrical energy, telephone and telecommunications, radio, television and public transit installations and the conveyance, distribution and supply of water, sewage, heat, gas, chemicals, steam, petroleum products and all piped installations, but

excluding storm water facilities, traffic signals, and any street and station lighting and fire prevention measures to be installed in connection with the Project in accordance with the requirements of the Scope Document.

"Utility Drawings" means the utility design sheets attached to the Concession Agreement.

"Utility Owner" means the owner of any of the Utilities located in or under or crossing any Site.

"Utility Relocation Agreements" means any agreement entered into between the District and a Utility Owner in relation to the Eagle P3 Project.

"Vacant Possession" means, in relation to any part of any Site, access to and possession thereof or making available to the Design Build Contractor the right to use therein in accordance with the Concession Agreement in its existing state and condition subject to:

(a) access rights of the District and the Project Third Parties as set out in the Third Party Agreements, including with respect to Utility Work in connection with any Utility required to be relocated by the District in accordance with the Concession Agreement;

(b) access rights of the DUS Infrastructure Contractor pursuant to the DUS Infrastructure Agreement;

(c) the rights of Relevant Authorities, Utility Owners or third parties to have access to such Site existing as of the Final Proposal Due Date;

(d) the statutory rights or public franchise rights of Relevant Authorities and Utility Owners to have access to such Site existing as of the Final Proposal Due Date;

(e) the rights, including rights of access, granted to the District and its employees, agents, consultants and contractors and to other Persons under the Concession Agreement and the other Project Agreements;

(f) restrictions of use set forth in easement deeds and/or right of entry permits applicable to the Sites as such restrictions are specified in the Concession Agreement; and

(g) restrictions set forth in any title commitments related to the Sites attached to the Concession Agreement.

"Voluntary Clean-Up Application and Materials Management Plan" means each of:

(a) the Voluntary Clean-Up Application and Materials Management Plan for the East Corridor as approved by the Colorado Department of Public Health and Environment; and

(b) the Voluntary Clean-Up Application and Materials Management Plan for the Gold Line as approved by the Colorado Department of Public Health and Environment.

"Warranty Periods" means:

(a) with respect to the Gold Line Project, eighteen (18) months following the Revenue Service Commencement Date for the Gold Line Project;

(b) with respect to the East Corridor Project, eighteen (18) months following the Revenue Service Commencement Date for the East Corridor Project;

(c) with respect to the Northwest Rail Electrified Segment Project, eighteen (18) months following the Revenue Service Commencement Date for the Northwest Rail Electrified Segment Project;

(d) with respect to the Commuter Rail Maintenance Facility, eighteen (18) months following the date on which the Company accepts final completion of the Design Build Contractor's Work with respect to the Commuter Rail Maintenance Facility in accordance with the Design Build Contract;

(e) with respect to the Rolling Stock, two (2) years following the date on which the Design Build Contractor accepts delivery of each Car in accordance with the Rolling Stock Supply Contract; and

(f) in the case of all design, construction and installation activities necessary for the full functionality of the DUS Rail Segment not provided as part of the DUS Infrastructure or the Fare System Equipment, eighteen (18) months following the date on which the Company accepts the Design Build Contractor's Work with respect thereto;

provided, *however*, that:

(a) any Warranty Period shall be extended for an additional twelve (12) months (but not to exceed twelve (12) months) from the date of repair or replacement solely with respect to any portion of the Work that is repaired or replaced during the final year of the initial Warranty Period; and

(b) any warranties from third-party suppliers, manufacturers or Subcontractors (including the Rolling Stock Supplier) longer than the Warranty Periods shall be passed through to the Company.

"WBS" or *"Work Breakdown Structure"* means a hierarchical breakdown of work scope by location, type and task.

"WBS Pricing Form" means the WBS pricing form submitted by the Company as part of the Concessionaire's Proposal.

"Withdrawal Liability" means, at any time, any liability incurred by the Company or any ERISA Affiliate and not yet satisfied or paid in full at such time with respect to any Multiemployer Plan pursuant to Section 4201 of ERISA.

"Work" means:

(a) with respect to the Concession Agreement, (i) following the Early Work Effective Date until the Phase 1 Effective Date, the Early Work, (ii) following the Phase 1 Effective Date, the Early Work and the Phase 1 Work, and (iii) following the Phase 2 Effective Date, the Early Work, Phase 1 Work and Phase 2 Work; or

(b) with respect to the Design Build Contract, as defined and described in APPENDIX E–"SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT."

"Work Order" has, in respect of any Utility, the meaning given to it in the relevant Utility Relocation Agreement.

"Work Products" means:

(a) with respect to the Concession Agreement, all Concessionaire Design Submittals, all Record Documents, the plans and programs to be prepared by the Company during the Design Build Period, the O&M Submittals and all other drawings, designs, specifications, manuals, reports, studies, surveys, models, software, documents, materials, deliverables, data, inventions, whether or not patentable, and products, including with respect to the Final Project Design, prepared, developed, acquired, used or intended to be used by the Company, any Project Contractor or any of their respective Subcontractors or suppliers in connection with the Eagle P3 Project or which is otherwise necessary for the purposes of carrying out the Work or operating the Concessionaire-operated Components in accordance with the terms of the Concession Agreement;

(b) with respect to the Design Build Contract, Contractor Design Submittals, all Record Documents, the plans and programs to be prepared by the Design Build Contractor during the Design Build Period and all other drawings, designs, specifications, manuals, reports, studies, surveys, models, software, documents, materials, deliverables, data, inventions, whether or not patentable, and products, including with respect to the Final Project Design, prepared, developed, acquired, used or intended to be used by the Design Build Contractor or any of the Subcontractors or suppliers in connection with the Project or which is otherwise necessary for the purposes of carrying out the Work in accordance with the requirements of the Contract Documents; or

(c) with respect to the O&M Contract, the O&M Submittals and all other drawings, designs, specifications, manuals, reports, studies, surveys, models, software, documents, materials, deliverables, data, inventions, whether or not patentable, and products prepared, developed, acquired, used or intended to be used by the O&M Contractor or any of the Subcontractors or suppliers in connection with the Project or which is otherwise necessary for the purposes of operating the Concessionaire-operated Components in accordance with the requirements of the O&M Contract.

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APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE CONCESSION AGREEMENT

The following is a summary of selected provisions of the Concession Agreement and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement. A copy of such agreement is available, free of charge, upon request from the Company or the Trustee. Unless otherwise stated, any reference in this Official Statement to any agreement shall mean such agreement and all schedules, exhibits and attachments thereto, as amended, supplemented or otherwise modified and in effect as of the date hereof.

Rights and Obligations of the Company

Concession; Lease

The Company has agreed, as and when required by the Concession Agreement, to (a) design and construct the Commuter Rail Projects and the Commuter Rail Maintenance Facility; (b) design, procure and install the DUS Systems; (c) design and procure the Rolling Stock; (d) provide the Commuter Rail Services and operate and maintain the Commuter Rail Network and the Rolling Stock; and (e) commencing on a specified date, dispatch the Heavy Rail Movements.

The District has agreed to lease to the Company, for the purpose of providing the Company the access necessary to construct, operate and maintain the Commuter Rail Network: (a) all Sites (commencing on the date on which such Sites are made available to the Company under the Concession Agreement), (b) to all other parts of the Commuter Rail Network (excluding the DUS Rail Segment), commencing on the date on which title to such part of the Commuter Rail Network passes to the District, and (c) the Rolling Stock, commencing on the date on which title to such Rolling Stock passes to the District, in each case, upon the terms, covenants and conditions of, the Concession Agreement and the other Project Agreements.

The District has also agreed to grant to the Company a license to use and occupy all parts of the DUS Rail Segment Site and the DUS Rail Segment, commencing on the date the District provides access to such site and segment and to use the DUS Systems, commencing on the date on which title to the relevant part of the DUS Systems passes to the District, for the purpose of operating and maintaining DUS Rail Segment, upon the terms, covenants and conditions of the Concession Agreement and the other Project Agreements.

The District has agreed that the Company shall peaceably and quietly have, hold and enjoy all parts of the Commuter Rail Network and the Rolling Stock, subject to (a) the District's rights otherwise to enforce against the Company its obligations under the Concession Agreement; (b) access rights of the District and certain third parties as set out in the agreements between the District and such third parties attached to the Concession Agreement; (c) access rights of the DUS Infrastructure Contractor pursuant to the DUS Infrastructure Agreement; (d) the access rights of Relevant Authorities, Utility Owners or third parties; (e) the statutory, recorded property or public franchise rights of Relevant Authorities and Utility Owners to have access to any Site; (f) the rights, including rights of access, granted to the District and its employees, agents, consultants and contractors and to other Persons under the Concession Agreement and the other Project Agreements; (g) rights or claims of parties in possession not shown by the public records; (h) specified disclosed restrictions of use set forth in easement deeds and/or right of entry permits; and (i) restrictions set forth in any title commitments related to the Sites.

Term of the Concession and Lease Period

The Project is divided into phases, each of which requires certain conditions precedent to occur prior to effectiveness and entails defined parameters of the Work to be undertaken by the Company: (i) Early Work (Early Work Effective Date); Phase 1 (Phase 1 Effective Date); and Phase 2 (Phase 2 Effective Date). The following provisions of the Concession Agreement became effective upon execution: Sections 1 (*Definitions, Interpretations and Appropriations*), 5 (*Effectiveness, Early Work and Phasing*), 6 (*RTD Verification Rights*), 7 (*Representations and Warranties*), 10 (*Financing*), 16 (*Reference Data*), 35 (*Indemnity*), 39 (*Force Majeure*) (but only for the

purposes of Section 5.7 (*Achievement of or Failure to Achieve the Phase 1 Effective Date*)), 48 (*Assignment*), 49 (*Partnering*), 50 (*Dispute Resolution Procedure*), 52 (*No Partnership*), 55 (*Confidentiality*), 56 (*No Deemed Waivers; Remedies Cumulative*), 57 (*Amendments*), 58 (*Notices, Etc.; Language*), 59 (*Captions*), 60 (*Governing Law*), 61 (*Consent to Service of Process*), 62 (*Waiver of Consequential Damages*), 63 (*Execution in Counterparts*), 64 (*Binding Effect*), 65 (*Severability*) and 66 (*Entire Agreement*) and the attachments referred to in such sections. Upon the Early Work Effective Date, the following provisions come into effect solely with respect to and as necessary to implement the Early Work in accordance with the Concession Agreement: Sections 8 (*RTD's Representative*), 9 (*Key Personnel*), 11 (*Land*), 12 (*Site Conditions and Site Investigation*), 13 (*Environmental Requirements*), 14 (*Safety and Security*), 15 (*Utilities*), 17 (*Permits*), 18 (*Submission*), 19 (*RTD Review*), 20 (*Project Third Party Review*), 22 (*Construction and Procurement*) (other than Section 22.8 (*Independent Engineer*)), 23 (*Concessionaire's Obligations and RTD's Rights*), 25 (*Organization of the Worksite*), 26 (*Construction Payments*), 30.4 (*Appropriations*), 32 (*Audit and Records*), 34 (*Insurance*), 36 (*Changes*), 37 (*Change in Law*), 38 (*Relief Events*), 39 (*Force Majeure*), 41 (*Termination of the Agreement*) and 53 (*Illegal Aliens*) and the attachments referred to in such sections. All of the provisions of the Concession Agreement (with the exception of provisions relating to Phase 2 will become effective on the Phase 1 Effective Date. The Lease Period will also commence on the Phase 1 Effective Date and will end on the date of expiration or early termination of the Concession Agreement, provided that, with respect only to the Rolling Stock, if the Concession Agreement is terminated early, the Lease Period will not end until the District has fully paid the Applicable Termination Amount or December 31, 2044, whichever occurs earlier.

Limited Phase 1 Notice to Proceed and Full Phase 1 Notice to Proceed

The District has agreed to deliver the Limited Phase 1 Notice to Proceed upon satisfaction of the conditions precedent to the Phase 1 Effective Date. If the District fails to deliver such Limited Phase 1 Notice to Proceed within 15 days of the Phase 1 Effective Date, such notice will be deemed to be delivered. Until the delivery of the Full Phase 1 Notice to Proceed, the Company shall carry out only that Phase 1 Work that (a) does not require the Company to enter onto or use the UP Sites and (b) does not, when taken together with all other Phase 1 Work carried out by the Company, require expenditure by the Company of an amount in excess of the amount specified in the Concession Agreement. When the Company's expenditures reach such specified amount, the Company shall so notify the District, and the District shall, in its sole discretion, (a) increase such specified maximum expenditure amount by an amount that would allow continuation of Phase 1 Work for not less than the succeeding one-month period, (b) order a suspension of the Work (in which case the Company may claim a Relief Event (subject to the provisions of the Concession Agreement applicable to the Relief Events generally), or (c) terminate the Concession Agreement. Any failure of the District to respond within 15 days following delivery of the Company's notice shall be deemed to be an order to suspend the Work. Upon delivery by the District of the Full Phase 1 Notice to Proceed, the Company shall carry out all Phase 1 Work in accordance with the Concession Agreement. If the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011, either party may terminate the Concession Agreement by thirty (30) days' prior written notice.

Phase 2 Obligations; Consequences of Failure to Achieve Phase 2 Effective Date

The provisions of the Concession Agreement relating to Phase 2 shall come into effect on the Phase 2 Effective Date. Until then, Phase 2 shall not constitute part of the Work or the Commuter Rail Services, and the District shall have no obligation for payment, including any Construction Payments and Service Payments, for any work performed by the Company on or in relation to Phase 2. The Phase 2 Effective Date will occur when the District delivers to the company the Phase 2 Notice to Proceed. The deadline for the delivery of the Phase 2 Notice to Proceed is December 31, 2011, but might be extended by the parties' agreement. If the Phase 2 Notice to Proceed is not delivered on or prior to such deadline, the District shall notify the Company of the location(s) for delivery of the Phase 2 Rolling Stock, and the Company shall (a) deliver such Phase 2 Rolling Stock to the District at such specified locations and (b) assign all warranties under the Rolling Stock Supply Contract in respect of the Phase 2 Rolling Stock to the District upon delivery with the District responsible for any additional delivery costs associated with delivery other than within the District, and the District shall either increase the Maximum Annual Phase 1 Construction Payment Amounts by an amount specified in the Concession Agreement, with such increase to be effective on a date no later than 180 days after deadline for the Phase 2 Effective Date, or request that the Company use its Reasonable Efforts to secure debt financing from Lenders and equity support from the Shareholders equal to the Phase 1 Excess Financing Amount, on terms consistent in all material respects with the Financial Model as at

Financial Close and the provisions of the Concession Agreement. If the Company succeeds in securing such financing, it shall notify the District of the terms of such financing and the Additional TABOR Portion Capacity, if any, required to be made available for the Company's exclusive use in accordance with the terms of the Concession Agreement as necessary to achieve such financing. Immediately upon closing of the financing for the Phase 1 Excess Financing Amount on the terms communicated to the District, among other things: the Base Annual Service Payments will be adjusted (upward or downward) to reflect the financial impact of the actual change, if any, in the cost of raising the Phase 1 Excess Financing Amount on the ability to achieve the Base Case Equity IRR, the same debt service coverage ratio, the same debt to equity ratio and other reasonable and customary financial ratios as set forth in the Financial Model. If (a) the District does not increase the Maximum Annual Phase 1 Construction Payment Amounts as described above, or (b) the Company is unable to secure funds to finance the Phase 1 Excess Financing Amount within ninety (90) days after the delivery of the District's request, the Company may claim a Relief Event.

Cooperation on Other District Projects

The Company is obligated to provide to the District, upon request, certain information and project records in connection with rail line or other transportation projects developed by the District, or on behalf of the District by persons other than the Company, and to use all Reasonable Efforts to cooperate and liaise with the District and all the District designated contractors engaged in such other District projects to the extent reasonably necessary to facilitate such other District projects, but such obligation to cooperate and liaise shall not require the Company to take, or refrain from taking, any action that would reasonably be anticipated to adversely affect the Work or the carrying out of the Company's other obligations under the Concession Agreement.

Provisions Relating to Financing of Company's Obligations

Security

For the purpose of financing the design, construction, commissioning and completion of the Eagle Project and the operation and maintenance of the Concessionaire-operated Components, the Company may, with the prior written consent of the District, assign and/or create security over its rights and interests in and under the Concession Agreement (including a leasehold mortgage over the lease granted by the District to the Company), any other Project Agreement, its property, its revenues, its bank accounts, the Intellectual Property Rights (to the extent it is lawfully able to do so under any Applicable Requirement) or any other rights and assets for the benefit of the Lenders.

Amendments to Financial Model and Designated Credit Agreements

The District has the right to approve any and all amendments, modifications or variations of any Designated Credit Agreement that is not consistent in all material respects with the Financial Model during an initial 14-day review process. An amendment or other variation of a Designated Credit Agreement, or a waiver of any provisions of a Designated Credit Agreement and certain other actions, may also constitute a "Refinancing" and, with the exception of certain transactions, will entitle the District to share in any gain resulting from such Refinancing. The District may elect to receive its share of the refinancing gain in the form of a lump sum payment, a reduction in the Service Payments over the remaining term of the Concession Agreement or a combination of the two. Any adjustment to the Financial Model (other than adjustments which are necessary under certain provisions of the Concession Agreement, such as provisions governing Refinancing or adjustments to Service Payments) is also subject to the District's prior consent during an initial 30-day review process.

Cooperation on Future Financing

If so requested by the Company, the District shall use Reasonable Efforts to assist the Company in obtaining federal credit assistance in the form of allocations by the United States Department of Transportation for private activity bonds and/or similar assistance under any other Federal program, but not including loans under the Transportation Infrastructure Finance and Innovation Act or the Railroad Rehabilitation and Infrastructure Financing Program. The District shall, promptly upon the request of the Company or any Lender, execute, acknowledge and

deliver to the Company, or any of the Persons specified by the Company, standard consents and estoppel certificates with respect to the Concession Agreement.

Availability of Construction Sites

The District will, at its own cost, obtain and provide to the Company vacant possession of each Site (subject to certain restrictions of use and/or right of entry permits) within the time periods specified in the Concession Agreement. If, during the Design Build Period, the Company requires any additional land (other than temporary construction easements necessary only during the performance of the Work for which the Company shall bear the cost and risk), the Company shall so notify the District and the District will use its best efforts in accordance with applicable Law to obtain and provide to the Company such additional land, at the Company's cost.

Environmental and Regulatory Matters

The Concession Agreement requires the Company to comply with all environmental obligations associated with the Project, including, but not limited to, permitting requirements, environmental impact mitigation requirements and responsibility for site contamination. The Company must also abide by the mitigation measures established in the NEPA review and with the hazardous material procedures as approved by the Colorado Department of Public Health and Environment.

Site Contamination

The Concession Agreement allocates responsibility between the Company and the District for site contamination found on the Project rights of way. The District is responsible for costs associated with the cleanup of certain pre-existing site contamination on or near the Project Site. When the Project is being constructed through areas with pre-existing site contamination, the District and the Company will coordinate on an action plan. The District will either reimburse the Company for the Company's actual costs of clean-up, up to the cost estimate proposed by the Company, or the District will perform the cleanup itself. There is no maximum cost liability established in the Concession Agreement, so the District is liable for such costs regardless of their overall amount.

Some contamination conditions are Relief Events for which schedule and cost relief are available. The Concession Agreement provides the Company with schedule relief if the contamination was not identified at the time the Company received control of the Project rights of way. If the contamination was known to exist or could have been foreseen based on environmental reports prepared by the District, the Company bears the risk of assessment, planning and project management of such cleanup activities so as not to delay the construction of the Project. Environmental information was provided for most of the Project Sites and indicates that contamination is likely present within areas that will be part of the Project Site.

The Concession Agreement provides that the District and the Company will share equally in the savings if the total costs expended for environmental remediation in connection with the Project are lower than $18,500,000. The District will pay the Company one-half of such savings within thirty (30) days after the construction of the Project is completed.

Archaeological Remains, Geological Obstructions and Endangered Species

In addition to site contamination, the Concession Agreement addresses other site conditions of concern, including the presence of archaeological remains, geological obstructions and endangered species. Archaeological remains are to be removed without delay at the District's cost. The Company is responsible for the costs and schedule management relating to the presence of geological obstructions and endangered species if the presence was known prior to the date of bid proposal or could reasonably have been discovered by review of the available reports and information. All costs and delays associated with any such conditions that are not known and could not have been identified by the date of bid proposal give rise to schedule and cost relief.

Permitting

The Company and the District share the responsibility for obtaining permits for construction of the Project. The Company must acquire all permits required for construction of the project, except for permits specifically allocated to the District. The permits for which the District is responsible have already been obtained. The rest of the permits must be obtained by the Company. Generally, the Company receives no schedule or cost relief if it fails to obtain any permit in a timely fashion. The District will cooperate with the Company in applying for the Permits and will, at the reasonable request of the Company and at the Company's cost, and where necessary, obtain, renew, replace, extend the validity of, or arrange necessary amendments to the Permits.

Mitigation of Environmental Impacts on the Project

The Concession Agreement allocates to the Company the responsibility of managing the environmental impacts of the Project. The Company must address temporary construction impacts by developing and implementing a construction management plan that considers air quality protection, noise control, water quality protection and safety. The Company must also take steps to limit impacts on protected species, such as the black-tailed prairie dog or burrowing owl, and to develop an integrated noxious weed management plan to limit the spread of these plants. Other mitigation required to be performed by the Company include the implementation of hazardous material management measures, including materials, health and safety plan, and an asbestos and lead-based paint survey.

Utilities

The construction Work under the Concession Agreement will require relocation of certain Utilities. The Concession Agreement specifies which of the Utilities are to be relocated by the Company, by the District or by a Utility Owner. In the case of a Utility required to be relocated by the District, if the District does not relocate such Utility (a) in accordance with the Utility Drawings by the date on which the Site (on which such Utility is located) is made available to the Company, or (b) by the completion date as specified in a utility matrix attached to the Concession Agreement, the Company will be entitled to a Relief Event. In the case of a utility required to be relocated by a Utility Owner, the Company will be responsible for coordinating and scheduling the relocation of such Utilities in accordance with certain requirements and a work order, which shall be negotiated among the Company, the District and the Utility Owner. Failure by a Utility Owner to timely relocate a Utility in accordance with an applicable work order will entitle the Borrower to a Relief Event. The discovery of an Unidentified Utility will also entitle the Company to a Relief Event.

Construction and Procurement

The Work

The Company will carry out and complete the Work in accordance with the Concession Agreement, the Project Requirements and Good Industry Practice standards, and the applicable Third Party Agreements of the District, including agreements with the heavy rail operators. The Company shall use Reasonable Efforts to ensure that the Revenue Service Commencement Date for each Commuter Rail Project occurs on or before the applicable Revenue Service Target Date, Final Completion for each Commuter Rail Project occurs on or before the date falling six months after the Revenue Service Commencement Date for such Commuter Rail Project, that the Final Completion Certificate for each Commuter Rail Project is obtained on or before the Final Completion Deadline Date, that each Commuter Rail Project, when commissioned, operates so as to comply with the O&M Standards, and that the Construction Security is appropriately maintained. During the Design Build Period, the Company shall perform certain operations and maintenance activities and comply with, and shall ensure that the Project Contractors and each of their Subcontractors complies with, certain provisions enumerated in the Concession Agreement. The Company shall provide monthly progress reports to the District and any other related information as requested by the District. The Work shall not include the procurement and installation of any fare system equipment, which will remain the District's responsibility.

Scope of Work

The Company will be obligated to carry out the Phase 1 Work and, following the Phase 2 Effective Date, the Phase 2 Work. The scope of the Phase 1 Work is subject to change based on a "third party option," pursuant to which the District may select one among several specific configurations of an element of the Phase 1 Work. The District's right to exercise the third-party option expires on November 10, 2010.

Ownership of Concessionaire-operated Components

Upon the incorporation into the Commuter Rail Network of each part of the Commuter Rail Network (excluding the Sites and the DUS Infrastructure) and completion of all Work related to such part, ownership of and title to such part of the Commuter Rail Network shall immediately and automatically vest in the District free from all encumbrances. Ownership of and title to each part of the Rolling Stock shall vest in the District free from all encumbrances upon delivery of any element of the Rolling Stock to a Site or, in certain circumstances, to the location or locations designated by the District in a prior Phase 2 Rolling Stock Termination Notice.

Suspension of Work

The District has the right to order the suspension of Work: (a) in the event of an emergency that creates an immediate need and serious threat to public health, safety, security or the Environment; (b) where it has reasonable grounds for concluding that damage to any part of the District's existing system, any Site, or any assets owned by any party on any part of any Site or personal injury to the employees or contractors of the District or third parties is likely to result from the continuation of the Work; (c) if the District is notified by a counterparty to a District contract that the Work does not comply with the requirements of such District contract and the District has reasonable grounds for concluding that the basis for such notice's assertions is well founded; or (d) if the District is notified by any governmental authority that the Work is in breach of any applicable Law or permit and the District has reasonable grounds for concluding that the basis for such notice's assertions is well founded. The District also has a right to order the suspension of Work if the Company has given a notice that the Company has exhausted the funds the Company is permitted to spend on Phase 1 Work prior to the delivery of the Full Phase 1 Notice to Proceed.

District's Access

The District and its consultants, agents and contractors shall have access to the Sites, the Work and the Commuter Rail Network and all other locations on or off the Sites where materials and interim and permanent items are being produced, manufactured, fabricated or stored, for the purpose of monitoring the quality and progress of the Work, attending the execution of any phases and tests of the Work and otherwise for the purpose of exercising certain rights of the District, provided that the District shall give the Company at least seven (7) days' notice of any such access if the location to be visited is outside the State of Colorado.

Interface with Heavy Rail Operators

The Company shall operate and maintain the Concessionaire-operated Components in accordance with the requirements of the Railroad Agreements and without impairing, disrupting, interfering with or otherwise having an adverse impact on the activities or operations of any Heavy Rail Operator. To the extent that the Company causes any impairment or disruption to, or interference with or impact on the activities or operations of any Heavy Rail Operator (except any such interruption that has been agreed by the Company in advance with the relevant Heavy Rail Operator or that does not constitute a breach of any Railroad Agreement), the Company shall, to the fullest extent permitted by Law, fully and effectively indemnify and hold harmless the District for all losses and/or claims arising out of such impairment, disruption, interference or impact, but only to the extent that such losses and/or claims do not arise as a result of the negligent acts, omissions or willful misconduct of the District or any District agent, servant, consultant or employee.

Construction Payments

During the Design Build Period, the District shall make certain monthly Construction Payments to the Company, subject to certain annual and aggregate caps with respect to Early Work Phase 1 Work, and Phase 1 and Phase 2 Work combined. The amount of each Construction Payment shall equal the total Earned Value of Work not previously paid as determined by reference to the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule) and the Schedule of Values based on the Company's progress on the Work. The Construction Payments for Phase 2 also include Phase 2 Financing Cost Payment, which shall not exceed the lesser of Financing Costs accrued under the Designated Credit Agreements and one-twelfth of the Maximum Annual Phase 2 Financing Cost Amount. The District shall, no later than thirty (30) days after the Company's delivery of an application for a Construction Payment, together with all supporting materials, pay to the Company any undisputed amount claimed by the Company in its application, together with 50% of any disputed amount. The annual caps on the Construction Payment are subject to adjustment by predetermined amounts upon exercise of the third-party option by the District or failure to achieve the Phase 2 Effective Date.

Completion

Revenue Service Commencement Dates

The Revenue Service Commencement Date for each Commuter Rail Project shall be the date on which the following Revenue Service Commencement Requirements have been satisfied, as certified by the Independent Engineer:

(a) except with respect to the identified punch list items, such Commuter Rail Project has been completed in accordance with the provisions of the Concession Agreement, the Project Requirements and Good Industry Practice;

(b) certain testing and inspection activities have been successfully carried out;

(c) during the system performance test, the Availability Ratio (calculated on a daily basis for the duration of the relevant period) for the applicable Commuter Rail Service was at least 95% for a consecutive 21-day period and at least 97% for a consecutive seven-day period within such 21-day period;

(d) all permits required for the operation of such Commuter Rail Project and such Commuter Rail Service have been obtained in final form and are not subject to appeal;

(e) all required Company design submittals and contract data relating to the operation and maintenance of such Commuter Rail Project have been submitted to, and, if required, approved by, as the case may be, the District, the Project Third Parties and the Relevant Authorities (as applicable);

(f) the required training program has been completed; and

(g) certain other conditions, including but not limited to implementation of the safety and security certification plan have been fulfilled by the Company.

Final Completion Dates

The Final Completion Date for each Commuter Rail Project shall be the date on which the following Final Completion Requirements for such Commuter Rail Project have been satisfied, as certified by the Independent Engineer:

(a) the relevant Revenue Service Commencement Certificate has been issued;

(b) the Company has demonstrated that the Availability Ratio on such Commuter Rail Service is an average of at least 94% for a period of any six consecutive calendar months commencing after the Revenue Service Commencement Date for such Commuter Rail Service and ending prior to the Final Completion Deadline Date;

(c) the Availability Ratio for such Commuter Rail Service has not fallen below 80% in more than one calendar month (or, if a single, continuous event lasting no more than 30 days extends across two calendar months and directly causes the Availability Ratio in both such months to fall below 80%, two calendar months) following (and including) the calendar month in which the Revenue Service Commencement Date occurred and the last calendar month of the six calendar month period referred to above;

(d) all contract data relating to the operation and maintenance of such Commuter Rail Project and Commuter Rail Service has been submitted to or approved by, as the case may be, the District and the Project Third Parties (as applicable);

(e) all of the punch list items set out in the schedule to the Revenue Service Commencement Certificate for such Commuter Rail Project shall have been carried out;

(f) all demobilization from the relevant Sites is complete; and

(g) certain other conditions, including but not limited to, completion of all system performance demonstration reports have been fulfilled by the Company.

Final Completion Deadline

The Final Completion Deadline Date is the date falling 24 months after the last Revenue Service Commencement Date (as it may be amended by the parties' agreement).

Operation and Maintenance

Operating Period

The Company shall begin operation of each Commuter Rail Service on the Revenue Service Commencement Date for that Commuter Rail Service or on such later date as the District may require; provided that the Service Payment shall not be reduced to reflect any impact to the Availability Ratio or the accrual of any Performance Deductions arising solely as a result of the District's requirement for operation by the Company of a Commuter Rail Service to begin after the Revenue Service Commencement Date for such Commuter Rail Service. The Company shall also be responsible for the dispatch of all Heavy Rail Movements. The Company will operate the Commuter Rail Services and operate and maintain the Concessionaire-operated Components throughout the Operating Period in compliance with the following requirements (collectively referred to as the O&M Standards):

(a) the provisions of the Concession Agreement;

(b) certain third party agreements of the District;

(c) the O&M Specifications;

(d) all Permits;

(e) all applicable Law, environmental, health, safety and security requirements;

(f) the requirements of specified Disadvantaged and Small Business Enterprises programs;

(g) Good Industry Practice; and

(h) certain other parameters.

The Company will take, and will ensure that the O&M Contractor and the O&M Subcontractors and their respective personnel take, all necessary action in accordance with Good Industry Practice, the Concession Agreement and applicable Law to ensure: (a) the uninterrupted and safe operation of the Commuter Rail Services in accordance with the O&M Standards and (b) that the operation of the Commuter Rail Services and the operation and maintenance of the Concessionaire-operated Components does not impair, disrupt, interfere with or otherwise have an adverse impact on the operation of the District's light rail or bus operations. The Company shall require the O&M Contractor and each O&M Subcontractor to agree to certain provisions in the O&M Contract or relevant Subcontract, as the case may be.

Maintenance and Repairs

The Company will at all times maintain, keep in good operating repair and condition and renew, replace and upgrade to the extent reasonably necessary, the Concessionaire-operated Components and any part thereof. The Company shall carry out all maintenance and repairs to the Concessionaire-operated Components at the Company's own cost and in accordance with the applicable standards and in a manner that causes the minimum amount of disruption to the operation of the Concessionaire-operated Components, to the District and to the counterparties to the District's Third Party Agreements. The Concessionaire-operated Components should, upon expiration, have the residual life specified in the Concession Agreement.

Emergencies and Disruptions; the District Intervention

The Company will, at all times, (a) respond as soon as possible to accidents, emergencies or other incidents; (b) provide prompt notice to the District of any accidents, emergencies or other similar incidents; (c) minimize the adverse effects of any accidents, emergencies or other incidents; and (d) react promptly and efficiently in the event of any incident or emergency necessitating the evacuation of any part of the Commuter Rail Network. If (a) the District considers that a breach by the Company of an obligation under the Concession Agreement creates an immediate and serious threat to public health, safety, security or the Environment; or (b) an event of an emergency has occurred that creates an immediate need and serious threat to public health, safety, security or the Environment and the Company has not taken steps to remedy or mitigate the effects of the emergency; or (c) the District has reasonable grounds for concluding that damage to, or a threat to the safety or security on, the District's commuter rail (excluding the Commuter Rail Network), light rail or bus operations is likely to result from the continuation of the Company's operation and maintenance of the Concessionaire-operated Components, the District may immediately intervene in the operation and maintenance of the Concessionaire-operated Components and take such reasonable action as it considers necessary, including issuing directions to the O&M Contractor, in order to prevent, mitigate or eliminate an immediate and serious risk to health, safety, security or the Environment or otherwise to ensure the safety of the passengers. The District may for this purpose enter into any part of the Concessionaire-operated Components or the Site for such period as is necessary and take over all or any part of the operation and maintenance of the Concessionaire-operated Components.

Electrical Energy

The Company shall ensure the connection of the Commuter Rail Network to the power network in accordance with the applicable requirements and shall ensure the supply of any electrical power required for the performance of the Work and the operations and maintenance of the Commuter Rail Network and the Rolling Stock. The Company shall pay for all electrical power used in the performance of the Work and for operations and maintenance of the Commuter Rail Network (except with respect to traction power, for which the District will be largely responsible, subject to certain cost-sharing and efficiency incentive arrangements).

Physical Security

During the Operating Period, the Company shall provide the necessary security and fare inspection services and make all necessary arrangements to ensure the protection of the Concessionaire-operated Components from damage and the protection of the safety and security of all passengers and staff on the Concessionaire-operated Components. Certain security-related responsibilities will be performed by armed security officers provided and supervised by the District.

Collection and Determination of Fares

The District shall be responsible for, and shall have all the necessary rights to effect, the supply, installation, testing, operation and maintenance of the fare system equipment and shall primarily be responsibly for the collection of all fares, with a possible exception for the fare system equipment which might be required to be carried by the Company's personnel in its performance of the fare enforcement obligations in accordance with the O&M Specifications. The District will determine in its sole discretion the level and structure of fares, ticketing and all other aspects of generating fare revenue. The District shall have all rights, title and interest in all fare revenue collected with respect to the use of the Commuter Rail Network.

Advertising and non-Passenger Derived Revenue

The District shall have all rights relating to advertising on the Concessionaire-operated Components and the Company shall cooperate and grant all necessary access to the District and any third party authorized by the District in connection with the District's exercise of its rights relating to advertising. The District shall pay to the Company the reasonable costs and expenses which are incurred directly by the Company in installing and/or maintaining the said advertising (other than routine maintenance).

Service Payments

Calculation of Service Payments

From the first Revenue Service Commencement Date, the Company shall become entitled to payment of the Service Payment on a calendar monthly basis calculated based on a fixed base monthly amount for each of the Commuter Rail Services, adjusted for the Availability Factor and Performance Deductions, among other adjustments. A portion of the Service Payments is indexed to a blended inflation rate tied to the CPI, labor and materials indices. The Availability Factor is based on the Availability Ratio which, in turn, is comprised of the Rolling Stock Availability, the On Time Availability and the Station Availability for the applicable month, which, for the purpose of determining the Service Payment amount, will be calculated on a system-wide basis. The District shall make the Service Payments based on the Company's invoices.

TABOR Portion of Service Payments

The District's obligation to make the Service Payment is divided into the TABOR Portion and the RTD Appropriation Obligation. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "PAYMENTS UNDER THE CONCESSION AGREEMENT—RTD Appropriation Obligations" for the description of the TABOR Portion of the Service Payments and the Additional TABOR Portion.

RTD Appropriation Obligation Portion of Service Payments

The RTD Appropriation Obligations are subject to the District's Board expressly making prior annual appropriations of moneys for the purposes of the Concession Agreement. No RTD Appropriation Obligation which requires funding in any Fiscal Year is legally enforceable against the District without an appropriation by the Board for the relevant amount of funding in such Fiscal Year. The District has agreed that the RTD Appropriation Obligations which require funding and are payable or expected to be payable during the following Fiscal Year shall be included in the District's annual budget for consideration by the Board for appropriation, and that any and all such RTD Appropriation Obligations shall be given priority (to the extent permitted by Law and subject to the District's other contractual obligations) within the District's annual budget for consideration by the Board for appropriation, and the District shall use best efforts to ensure the availability of funds to meet such RTD Appropriation Obligations.

The Company's Right and Obligation to Suspend Service

Subject to certain conditions, if the District reasonably anticipates that the Board will not include any RTD Appropriation Obligations that are payable or expected to be payable during the following Fiscal Year in the

District's annual budget for such Fiscal Year, the District shall notify the Company no later than 45 days prior to the start of such Fiscal Year of the amount of such shortfall. As soon as is reasonably practicable under the circumstances, and until the Company is notified by the District that such shortfall of the RTD Appropriation Obligations has been included in the District's annual budget for such Fiscal Year, the Company (a) shall suspend the Work or, in the case of a partial shortfall of the RTD Appropriation Obligations, may suspend the Work and/or (b) shall suspend or partially suspend operation of the Concessionaire-operated Components from the date of such notice to the extent and in the manner directed by the District. If the Board fails to include any RTD Appropriation Obligations that are payable or expected to be payable pursuant to the Concession Agreement for the following Fiscal Year in its annual budget for such Fiscal Year, the Company shall suspend or may partially suspend, as applicable, performance by the Company of the Work and/or shall suspend or partially suspend, as applicable, operation of the Concessionaire-operated Components on January 1 of the Fiscal Year for which adequate funds to meet such RTD Appropriation Obligations have not been included in such annual budget. Each suspension described in this paragraph shall be treated as an RTD Proposed Change. During any period of suspension or partial suspension, the Company may continue to submit Invoices to the RTD with respect to the TABOR Portion up to a maximum amount equal to the Service Payment that would have been payable in the absence of such suspension (minus certain avoidable costs which are not being incurred by the Company during such period of suspension) and, in the event of a partial suspension only, any other portion of the Service Payment that remains payable and for which the Board has included funds in the District's annual budget for such Fiscal Year.

Rolling Stock Provisions

Rolling Stock Option

The District has an option to request that the Company procure and deliver, at the District's cost, no less than eight and no more than 24 additional cars. Such option is exercisable once, at any time prior to 24 months before the Rolling Stock Supplier's scheduled delivery date of the final Car (other than the Rolling Stock Option Cars) under the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule), but in any event no later than the fifth anniversary of the Concession Agreement.

Rolling Stock Replacement

Not later than the date which is 25 years after the first Revenue Service Commencement Date, the parties shall jointly prepare (each at its own cost) a detailed report setting out: (a) the condition and state of repair of each Car; (b) an estimate of the remaining useful life of each Car; (c) any measures that could reasonably be taken in order to extend the useful life of any Car, any amendments to the maintenance regime and/or to the Handover and Reinstatement Work Procedures necessary to achieve such an extension and the cost of implementation; and certain related matters. To the extent the District has undertaken the process for procurement of any replacement Rolling Stock for use by the District after the Expiry Date, the Company will be obligated to use all Reasonable Efforts as the District may reasonably request to assist with such procurement, provided that (i) any such request will be treated as an RTD Proposed Change under the Concession Agreement and (ii) this obligation will not require the Company to take any action that would reasonably be anticipated to adversely affect the Concessionaire-operated Components, the provision of the Commuter Rail Services or the carrying out of the Company's other obligations under the Concession Agreement.

Intellectual Property Rights

The Company shall provide the Work Products to the District in accordance with the terms of the Concession Agreement. The Company has granted to the District, for the benefit of the District and the FTA, a fully paid-up, royalty-free, non-exclusive, irrevocable, perpetual license, with the right to sub-license, limited to the territory of the United States of America, to use, make, import, reproduce, publish, display, modify, create derivative works from or otherwise exploit certain elements of the Work Products (not including the Financial Model) in connection with the Project, any RTD Related Project and direct purposes of the US government. In addition, the Company is obligated to obtain, on behalf of the District, at the Company's expense, certain rights and licenses for use by the District and/or its contractors in connection with the Eagle Project of the elements of the Work Products that are owned by third parties. The Company shall provide all documentation and licenses, information, materials and assistance reasonably required by the District to exercise such use rights, including (a) any additional licenses

needed for new developments or additions, and (b) all information and source code necessary to fully access and create derivative works based on software. The Company shall indemnify the District (and its directors, officers, agents, consultants or employees) to the maximum extent permitted by law from and against all Loss, whether direct or indirect, and Claims that the District (or any of its directors, officers, agents, consultants or employees) may suffer or incur (a) arising out of a breach of the Company's warranties related to the Company's intellectual property rights or otherwise out of any Claim of an infringement of such intellectual property rights or (b) if the District's rights and interests provided under the Concession Agreement with respect to certain of the Company's intellectual property rights are at any time determined by a court of law or other competent authority to be invalid, ineffective or impaired in any material respect.

Insurance

The Concession Agreement specifies which party is responsible for the various policies of insurance required to be carried under the Concession Agreement, the Design Build Period and the Operating Period. During the Design Build Period, the District, at its own expense, will procure, pursuant to an owner controlled insurance program (the "OCIP"), certain insurance coverages with respect to workers' compensation/employer's liability, commercial general liability and excess liability coverage, for the benefit of the Company, the Design Build Contractor, any Design Build Subcontractor, the O&M Contractor and any O&M Subcontractor, in each case, to the extent that these contractors are enrolled in the OCIP and performing eligible work in accordance with the requirements set forth in the OCIP Manual. In addition, during the Design Build Period (with certain exceptions, including with respect to Rolling Stock and railroad protective liability insurance), the District, at its own expense, will procure certain other insurance coverages not subject to the OCIP enrollment requirements with respect to builder's risk insurance, contractor pollution liability insurance, railroad protective liability insurance and rolling stock insurance. Also during the Design Build Period, the Company will procure certain statutorily-mandated insurance coverages and certain other additional insurance coverages not procured by the District. During the Operating Period, the Company will, at its own expense, procure certain insurance coverages in respect of the Concessionaire-operated Components that generally include the insurance coverages provided by the District during the Design Build Period. In the event that any risk required to be insured by the Company is an Uninsurable Risk, the District will assume the risk of the occurrence of the Uninsurable Risk on the same basis as such Uninsurable Risk would have been insured by the Company in accordance with the Concession Agreement. The Concession Agreement also provides a gradated mechanism for the sharing of insurance costs, in the event such costs exceed the costs assumed in the Company's Bid Insurance Cost by more than Consumer Price Index.

Company Indemnity

The Company will fully indemnify and hold harmless the District and the District's agents, servants, consultants and employees and, to the extent required by the Project Agreements, the Project Third Parties and their respective agents, servants, consultants and employees from and against all Losses and/or Claims (excluding any Losses of, or Claims for, lost revenue to the District resulting from a failure to collect passenger fares) arising out of or in connection with any act or omission of the Company or its agents, servants, consultants or employees in connection with the Concession Agreement and the other Project Agreements or breach thereof or any willful misconduct of the Company or its agents, servants, consultants or employees. The Company will not be liable to indemnify the District or the Project Third Parties or their agents, servants, consultants or employees for any Losses and/or Claims, to the extent that they have been fully and effectively indemnified by the proceeds of insurance carried under the Concession Agreement or otherwise in accordance with the terms of any Third Party Agreement or other agreement between the Company and, as the case may be, the relevant Project Third Party or any of its agents, servants, consultants or employees.

Changes

Company Proposed Changes

The Company shall have the right to suggest a change to the Final Project Design, the Design, Construction and Rolling Stock Requirements or the O&M Specifications. The Company-proposed changes are subject to consent by the District at its discretion.

RTD Proposed Changes

If the District wishes to initiate at any time any change or alteration to:

(a) the Final Project Design, the Design, Construction and Rolling Stock Requirements or the O&M Specifications or, with respect to the Rolling Stock, the procedures relating to the Handover and Reinstatement Work Requirements;

(b) require the Company to operate and maintain any Other RTD Project, to the extent such project constitutes a rail line connected to the Commuter Rail Network, as an additional element of the Project;

(c) require the Company as part of a regularly scheduled or occurring service to dispatch Heavy Rail Movements on a portion of the Commuter Rail Network other than the DUS Rail Segment; or

(d) during the Design Build Period only, accelerate elements of the Work, including as determined by reference to the Original Baseline Schedule (or, as the case may be, the Revised Baseline Schedule),

the District shall be entitled to submit a written request in respect of such change or alteration to the Company at the District's own cost, which request shall specify whether the District shall, or reserves the right to, require the Company to seek funding for such change. The Company shall respond to the District indicating whether it has any objection to carrying out the proposed change, its estimated "not to exceed" cost of such change, such change's expected impact on the then-current baseline schedule for Work or on operation and maintenance activities and any other relevant information. If the District chooses to proceed with the proposed change, the Company shall prepare a more comprehensive report, which will include the full details of the proposed change implementation and its additional costs (to be paid by adjustment to the Service Payments) and anticipated impact on schedule of Work and operation and maintenance activities. If the District agrees with the Company's analysis and directs the Company to implement the change, the Company will be entitled to claim the Relief Event and be paid the stipulated compensation. If the District disagrees with the Company's analysis, it can direct a third party contractor to implement the change, subject to certain conditions. In addition, the District may request that the Company use its Reasonable Efforts to seek financing for the change from the Company's Lenders or other third party funders. If the Company is unable to secure such financing, the Company shall be obligated to implement the change only to the extent the District has provided funding for such change.

Change in Law

Any Change in Law that

(a) constitutes a Discriminatory Change in Law;

(b) will result in a material delay or increase in the cost of carrying out the Work during the Design Build Period;

(c) will result in an increase in the costs of performing the Company's obligations under the Concession Agreement with respect to the Concessionaire-operated Components during the Operating Period; and/or

(d) will have an adverse effect on the financial position of the Company as established in the Financial Model immediately prior to the occurrence of such Change in Law,

will entitle the Company to claim a Relief Event and to receive from the District the reimbursement for the Incurred Costs resulting from such Change in Law (subject to certain deductions, unless the Change in Law constituted a Discriminatory Change in Law). The payment by the District of the Incurred Costs will be made by adjustment to the Service Payments. The District may elect to require the Company to provide funding for any Change in Law Change. If the District makes such election, the Company shall request from the Lenders or other third party funders or financial institutions the provision of funds to finance the changes required by any Change in Law Change. The

District has agreed that the Lenders may refuse the provision of any such funding in their sole discretion and that the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for implementing any Change in Law Change.

Relief Events

Relief Events include:

(a) any delay in granting Vacant Possession of any part of any Site beyond the time limits specified in the Concession Agreement, or granting Vacant Possession subject to restrictions of use and/or right of entry permits in either case not specified in the description of Vacant Possession, or failure to satisfy beneficial occupancy requirements with respect to a certain Site;

(b) any failure by a Utility Owner to perform its obligations with respect to relocation of any utility which such Owner is obligated to relocate;

(c) any failure by the District to timely remove and/or relocate any utility which the District is obligated to relocate;

(d) certain disputes with third parties with respect to Concessionaire Design Submittals, to the extent that it is subsequently determined, in accordance with the procedures set out in the applicable Third Party Agreement, that the Concessionaire Design Submittals submitted to that Project Third Party do comply with the applicable requirements;

(e) certain other failures by third parties with respect to Concessionaire Design Submittals;

(f) any Unidentified Archaeological Remains discovered by the Company at any Site;

(g) any Unidentified Environmental Condition encountered by the Company at any Site;

(h) any Unidentified Geological Obstruction encountered by the Company at any Site;

(i) any Unidentified Endangered Species encountered by the Company at any Site;

(j) the implementation of a Change or a Change in Law Change or similar circumstances;

(k) any willful misleading of the Company related to deficiencies in Reference Data;

(l) a violation of Law or permit by the District;

(m) a failure of the District to timely obtain for the Company the benefit of permits required to be obtained by the District;

(n) the discovery of any Unidentified Utility;

(o) any change in voltage of the primary power supply drawn from the Utility transmission network;

(p) wrongful suspension by the District of any part of the Work, or suspension due to the Company's exhausting the amount the Company is permitted to spend on Work prior to the delivery of the Full Phase 1 Notice to Proceed;

(q) certain other disputes with the District, to the extent resolved in favor of the Company, or failure by the District to fulfill certain obligations under the Concession Agreement;

(r) the imposition by any Relevant Authority on the Company's possessory interest in the Project of any ad valorem property tax or possessory interest property tax under the Laws of the State of Colorado or any sales or use tax on construction and building materials, equipment, improvements and other property (including tangible personal property), that will be integrated into the Project and owned by the District;

(s) any failure by the District to comply with its obligations with respect to the Rolling Stock Option;

(t) any interruption or interference to the Work or the Commuter Rail Services caused by the procurement, design, construction, operation or maintenance of any Other RTD Project;

(u) the issuance of any preliminary or permanent injunction or temporary restraining order or other similar order, legal restraint or prohibition by a Relevant Authority of competent jurisdiction under applicable Law, which issuance is solely as a result of the District's actions or omissions (and not the Company's actions or omissions), which injunction, order, restraint or prohibition materially affects the District's or the Company's performance under the Concession Agreement;

(v) the execution by the District of any Utility Relocation Agreement, Inter-Governmental Agreement, Railroad Agreement or certain Third Party Agreements after the Technical Proposal Due Date on terms non consistent with the agreed forms of such agreements;

(w) failure of certain assumptions regarding the design of the DUS Infrastructure;

(x) any failure by the District or any third party contractor acting on the District's behalf to complete any District Retained Environmental Work by the completion date for such Environmental Clean-up Work or any material interruption or interference with the Company's performance of its obligations under the Concession Agreement caused by the District or any third party contractor acting on the District's behalf in performing any District Retained Environmental Work;

(y) failure of certain assumptions regarding the applicable Environmental Law; and

(z) (i) the District does not increase the Maximum Annual Phase 1 Construction Payment Amounts as a result of the failure to achieve the Phase 2 Condition Precedent Satisfaction Date, or (ii) the Company is unable to secure funds to finance the Phase 1 Excess Financing Amount within 90 days after the delivery of a Phase 1 Excess Financing Request,

but, in each case, only to the extent that:

(a) such event or circumstance (and/or its effects and consequences on the Company) does not result from and is not contributed to by any breach by the Company of its obligations under the Concession Agreement or any of the other Project Agreements or any negligent act or omission of the Company;

(b) such event or circumstance has arisen notwithstanding the Company complying with its obligations under the Concession Agreement; and

(c) the Company has complied with the specified mitigation obligations.

Extension of Time and Other Relief

During the Design Build Period, where the carrying out of the Work has been delayed as a result of the occurrence of a Relief Event during the Design Build Period, the dates for any Revenue Service Target Date, the Revenue Service Deadline Date and/or the Final Completion Deadline Date shall be extended to reflect the impact of the Relief Event on the critical path of the Work. If the occurrence of any Relief Event during the Design Build Period prevents the Company from achieving the Revenue Service Commencement Date in respect of a Commuter Rail Service, then the Revenue Service Commencement Date for such Commuter Rail Service shall be deemed to have occurred for the purposes of the payment of the Service Payment, but for no other purposes, on the date on

which the Revenue Service Commencement Date would have occurred but for such Relief Event. During the Operating Period, the Company shall not suffer any impact to the Availability Ratio or accrue any Performance Deductions as a result of such Relief Event where the events giving rise to such Relief Event would, absent such Relief Event, have caused such impact to the Availability Ratio to arise or such Performance Deductions to accrue. During either the Design Build Period or the Operating Period, the Company shall be entitled to claim, and be paid by the District, the Incurred Costs actually incurred by it as a result of the impact of such Relief Event on the Company's performance of the Concession Agreement, and any additional work it is required to carry out as a result of such Relief Event. There is a separate relief mechanism for relief in connection with a Change or Work Order.

Adjustments to the Service Payment

Following the occurrence of any Relief Event that results in the Company incurring additional capital expenditure or funding, an adjustment to the Service Payment for such Commuter Rail Service will be made in order to restore the respective economic position of the Parties as set out in the Financial Model immediately prior to such occurrence or payment, as the case may be, and, in the case of a Change, to ensure that the Company suffers no reduction in revenue or net income as a result of carrying out such Change. Any Incurred Costs payable by the District shall be paid by the District by direct lump-sum payment or by an adjustment to the Service Payments as soon as possible following the occurrence of the Relief Event; provided that the amount and timing of such adjustment shall be determined by reference to the Financial Model so as to maintain the debt service coverage ratios (and/or other financial ratios) required to be maintained under the Designated Credit Agreements. The District may elect to require the Company to provide funding for any Incurred Costs payable by the District. If the District makes such election, the Company shall request from the Lenders or other third-party funders or financial institutions the provision of funds to finance such Incurred Costs. The District has agreed that the Lenders may refuse the provision of any such funding in their sole discretion and that the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for any such Incurred Costs. The Company shall use its Reasonable Efforts to comply with any conditions to funding imposed by the Lenders including requesting equity support from the Shareholder, it being understood that the Shareholders may refuse the provision of any such funding in their sole discretion, and that, in such a case, the Company shall be under no additional obligation (and shall not be in breach of any undertaking) in connection with the provision of any funding for any such Incurred Costs. If the Lenders or the Shareholders refuse to provide any funding for the implementation of any such Incurred Costs, the District shall provide funding for the implementation of such Incurred Costs or otherwise adjust the manner described above.

Force Majeure Events

Force Majeure Events include the following events or circumstances or any combination of such events or circumstances (subject to certain conditions and qualifications):

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, in each case involving, imminently threatened within or directly affecting the United States of America, provided that where only threatened, the actions taken by the Company must be reasonable in view of and proportionate to the threat;

(b) the occurrence of force majeure under any Third Party Agreement or action (including a Change in Law) taken by any Project Third Party (or their respective agents or contractors) or any other Relevant Authority, in response to a threat to, or event affecting, the public health, safety, security or the Environment, in each case, the effect of which is to suspend, delay or disrupt the performance by the Company of any of its obligations under the Concession Agreement;

(c) revolution, riot, insurrection, civil commotion, sabotage or terrorism, provided that, where only threatened, the actions taken by the Company must be reasonable in view of and proportionate to the threat;

(d) strikes or industrial action unless they are solely restricted to employees of the Company, any Project Contractor and/or their respective Subcontractors;

(e) nuclear explosion, radioactive or chemical contamination or ionizing radiation or electro-magnetic pulse or biological contamination of any Site, unless the source or cause of the explosion, contamination, radiation, pulse or hazardous material is brought to or near such Site by the Company, the Design Build Contractor or any Design Build Subcontractor or any of their employees, servants, agents or consultants;

(f) fire, explosion, sonic boom, storm, flood, earthquake, landslide or severe weather but only where it causes material and unavoidable damage to all or any material part of any Site, the Work (including materials procured for use therein) or the Concessionaire-operated Components or otherwise causes the Concessionaire-operated Components to be unusable or substantially unusable;

(g) any failure, shortage or outage of power supplied by the power network;

(h) a legally imposed quarantine, against which the affected party could not reasonably have been expected to take precautions, and which prevents or delays the performance by the Affected Party of its obligations under the Concession Agreement;

(i) embargo or trade sanctions having an adverse effect on the performance of the Concession Agreement; and

(j) any other event outside the reasonable control of the Affected Party, and which was not reasonably foreseeable by the Affected Party as at the date of the Concession Agreement, where such event materially and unavoidably prevents or delays the Affected Party from performing any of its obligations under the Concession Agreement.

Relief from Liability

None of the parties will be liable for any failure to comply, or delay in complying, with any obligation under or pursuant to the Concession Agreement to the extent that such failure or delay is caused directly by a Force Majeure Event, provided that no such relief may be claimed in respect of any obligation to pay any amounts that may from time to time become owing thereunder. If occurring during the Operating Period, the District shall continue to pay the Service Payment without deduction in respect of the effects of the Force Majeure Event, and the Company shall not suffer any impact to the Availability Ratio or accrue any Performance Deductions as a result of the Force Majeure Event where the events giving rise to the Force Majeure Event would, absent a Force Majeure Event, have caused such impact to the Availability Ratio to arise or such Performance Deductions to accrue. If occurring during the Design Build Period, where the performance of the Work has been delayed as a result of the occurrence of a Force Majeure Event, the dates for any Revenue Service Target Date, the Revenue Service Deadline Date and/or the Final Completion Deadline Date shall, to the extent necessary, be extended as agreed by the parties to reflect the impact of the Force Majeure Event on the critical path of the Work. If the occurrence of a Force Majeure Event or Force Majeure Events during the Design Build Period prevents the Company from achieving the Revenue Service Commencement Date for a Commuter Rail Service, then the relevant Revenue Service Commencement Date shall be deemed to have occurred for the purposes of the payment of the Service Payment, but for no other purposes, on the date on which the Revenue Service Commencement Date would have occurred but for the Force Majeure Event or Force Majeure Events, as applicable, for such Commuter Rail Service.

Damage and Restoration

If any part of the Concessionaire-operated Components shall be damaged or partially destroyed, the Concessionaire will be obligated to undertake the restoration, to the extent of insurance proceeds or funds provided by the District, unless the District (acting reasonably taking into account all circumstances including the amount of the available insurance proceeds) determines that the restoration of the damaged Concessionaire-operated Components is not feasible.

Termination of the Concession Agreement

Concessionaire Termination Events

The Concessionaire Termination Events include the following, among others:

(a) the Company fails to commence the Work within four months after the Phase 1 Effective Date;

(b) the Revenue Service Commencement Certificate in respect of any Commuter Rail Service is not, or there is no reasonable prospect of it being, issued on or before the Revenue Service Deadline Date;

(c) the Final Completion Certificate in respect of any Commuter Rail Project is not, or there is no reasonable prospect of it being, issued on or before the Final Completion Deadline Date;

(d) the Company abandons the Work and (A) the Company expressly declares in writing that it will not resume the Work or (B) such abandonment continues for 90 consecutive days without prior written consent of the District;

(e) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking liquidation, reorganization or other relief in respect of any of the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period) or the O&M Contractor (during the Operating Period) or any of their debts, or of a substantial part of their assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect (or similar proceedings);

(f) any of the Company, the Shareholders, the Design Build Contractor (during the Design Build Period), the Rolling Stock Supplier (during the Design Build Period or the Operating Period) or the O&M Contractor (during the Operating Period) shall voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect (or similar proceedings);

(g) the operation of the Concessionaire-operated Components by the Company in a manner violating applicable Law or the Concession Agreement and endangering the safety of passengers following a written notice from the District outlining such safety concerns;

(h) any failure by the Company to obtain and maintain sufficient committed funding for the Eagle Project (i) during the Design Build Period or (ii) after the last Final Completion Date, in the event there are any material cost overruns for which the Company is required to secure funding, which failure to obtain and maintain sufficient committed funding would, with the passage of time, reasonably be expected to result in a separate Concessionaire Termination Event, in either case (i) or (ii), which failure has not been remedied by the Company within a period of 90 days following its occurrence;

(i) the Design Build Contract is terminated during the Design Build Period, the Rolling Stock Supply Contract is terminated during the Design Build Period or the Operating Period and/or the O&M Contract is terminated during the Operating Period and the Company has not entered into a replacement O&M Contract or Design Build Contract or, as the case may be, the Design Build Contractor has not entered into a Replacement Rolling Stock Supply Contract, in any such case, with a reputable counterparty reasonably acceptable to the District within 90 days following the date of termination of the Design Build Contract and/or the O&M Contract and/or within 60 days following the termination of the Rolling Stock Supply Contract (as applicable);

(j) the Company sells, transfers, leases or otherwise disposes of all or any part (which has a material adverse effect on the Company's ability to carry out its obligations under the Concession Agreement) of its undertakings, properties or assets by a single transaction or a number of transactions without the prior consent of the District (such consent not to be unreasonably withheld or delayed);

(k) the Company fails to provide Handover Security as applicable;

(l) the noncompliance with any share transfer restrictions or any change in control limitation;

(m) the Company fails to comply in any material respect with specified provisions of the Concession Agreement;

(n) any of the Project Agreements other than the Concession Agreement:

(i) ceases to be in full force and effect or no longer constitutes the valid, binding and enforceable obligations of the Parties thereto other than the District (other than due to the termination of such Project Agreement, or an involuntary bankruptcy event or a voluntary bankruptcy event, in each case as defined in such Project Agreement); or

(ii) is materially amended, varied or departed from (other than in accordance with the Concession Agreement),

and this materially adversely affects the ability of the Company to perform its obligations under the Concession Agreement, or any right of the District under the Concession Agreement, or its ability to enforce any such right, or to perform its obligations under the Concession Agreement;

(o) the Availability Ratio of any Commuter Rail Service (treating the Gold Line Service and the Northwest Rail Electrified Segment Service as a single Commuter Rail Service for purposes of clause (ii) below) is less than (i) 80% in two or more months between the applicable Revenue Service Commencement Date and the applicable Final Completion Date or (ii) 85% in six or more months of any eight-month period (provided in each case that a single, continuous event lasting no more than 30 days extends across two calendar months and directly causes the Availability Ratio in both such months to fall below 80% or 85%, as applicable, shall be deemed to have resulted in an Availability Ratio less than 80% or 85%, as applicable, in the first such month only);

(p) the Performance Deduction Percentage exceeds 3% of the Adjustable Base Service Payment for the relevant month in six or more months of any eight-month period; and

(q) any breach of any other material obligations of the Company under the Concession Agreement (but only to the extent such breach (i) is not the subject of Performance Deductions, (ii) has not resulted in any impact on the Availability Ratio and (iii) is not otherwise the subject of penalties or deductions under the Concession Agreement) or any written repudiation of the Concession Agreement by the Company.

Consequences of a Concessionaire Termination Event

Subject to the terms of the Lenders' Direct Agreement and the applicable cure periods, upon the occurrence of a Concessionaire Termination Event and so long as such event is continuing, the District may (a) in the case of certain Concessionaire Termination Events, serve notice of default on the Company and require the Company to (i) remedy the breach specified in such notice of default within a certain specified time period or (ii) propose within twenty (20) days following such notice of a default a reasonably-detailed remedial plan, or (b) in the case of certain other Concessionaire Termination Events, terminate the Concession Agreement with immediate effect (among other available remedies).

RTD Termination Events

The RTD Termination Events include the following, among others:

(a) other than as a result of any failure to appropriate (by inclusion in its annual or any interim budget) monies for the purposes of the RTD Appropriation Obligations, the District fails to pay any undisputed amount within 10 days after the due date;

(b) the Board fails, by the end of a Fiscal Year, to make an appropriation (by inclusion in its annual or any interim budget) of monies for the purposes of the RTD Appropriation Obligations (other than any Applicable Termination Amount) pursuant to the Concession Agreement in an amount sufficient to fund the RTD Appropriation Obligations (other than any Applicable Termination Amount) estimated to fall due, or that have fallen due, during such Fiscal Year;

(c) a Discriminatory Change in Law or a Change in Law, but only where the District is not providing compensation to the Company to compensate it for the effects of the Discriminatory Change in Law or Change in Law, as required by the terms of the Concession Agreement; and

(d) the obligations of the District under the Concession Agreement are or become illegal, unenforceable, void or voidable, and as a result, the District is or becomes unable to perform its material obligations under the Concession Agreement.

Consequences of an RTD Termination Event

Subject to specified cure periods, upon the occurrence of an RTD Termination Event, the Company may terminate the Concession Agreement in its entirety.

Termination for Extensive Force Majeure or Failure to Issue Full Phase 1 Notice to Proceed

Either party has the right to terminate the Concession Agreement in the case of an Extensive Force Majeure by a 7-day notice to the other party, or if RTD has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011. In addition, RTD has the right to terminate the Concession Agreement if, in the absence of the Full Phase 1 Notice to proceed, the Company has given a notice of the expenditures on Work exceeding the amount that the Company is allowed to spend on Work prior to the delivery of the Full Phase 1 Notice to proceed, as described above.

Compensation Following Termination

See the section "Applicable Termination Amount" below for the description of various amounts which will be due and payable by the District in the case of an early termination of the Concession Agreement. Any Applicable Termination Amount shall be due and payable by the District 60 days after the Termination Date. To the extent not paid by the District 60 days after the Termination Date, on each anniversary of the Termination Date, certain components of the Applicable Termination Amount shall be re-calculated, while other components shall accrue interest at specified rates. No default interest shall accrue on any RTD Default Amount, Concessionaire Default Amount or FM Termination Amount other than with respect to certain components as determined and set forth in the Concession Agreement.

Financing of the Applicable Termination Amount

Unless the Applicable Termination Amount is paid by the District in full 60 days after the Termination Date, from the Termination Date and until the Expiry Date, the District shall pay to the Company in respect of the Applicable Termination Amount the TABOR Portion in accordance with the Trustee's Instructions during the applicable calendar year for which TABOR Portion amounts are set forth in the Concession Agreement, pro rata on a monthly basis during such calendar year on the fifth Business Day of each month during such calendar year in an aggregate amount (together with any Additional TABOR Portion amounts or other amounts paid by the District to the Company in respect of the Applicable Termination Amount) not to exceed the Applicable Termination Amount. Following the Expiry Date (if the District has not paid the Applicable Termination Amount in full to the Company) and only until the District has paid the Applicable Termination Amount in full to the Company, the payment of such Applicable Termination Amount shall continue to be secured by the pledge of the RTD Pledged Revenues and the Trustee's Instructions, and the District shall continue to pay to the Company that portion of the Applicable Termination Amount which, on the Expiry Date, was secured as the TABOR Portion and any Additional TABOR Portion. See "PAYMENTS UNDER THE CONCESSION AGREEMENT—TABOR Portion" and "PAYMENTS

UNDER THE CONCESSION AGREEMENT—RTD Appropriation Obligations" for the description of the Additional TABOR Portion.

Applicable Termination Amount

Applicable Termination Amount Following Termination for Concessionaire Termination Event

— Applicable Termination Amount for Termination during the Design Build Period

If the Concession Agreement is terminated due to a Concessionaire Termination Event during the Design Build Period, the amount payable by the District as termination compensation shall equal an amount not to exceed the aggregate amount of 100% of Lenders' Liabilities then owing equal to:

(a) all Project Implementation Costs incurred by the Company until the Termination Date (excluding any prepayment costs and fees or make-whole amounts or breakage costs calculated by reference to the Financial Model as at Financial Close) as verified by the Independent Engineer;

less

(b) any amount standing to the credit of any bank account held by or on behalf of the Company that has not been applied to the costs of performing the Company's obligations under the Concession Agreement;

less

(c) the aggregate amount of Construction Payments made by the District under the Concession Agreement;

less

(d) the Projected Rectification Costs as determined by an independent third party expert appointed jointly by the Parties;

less

(e) the reasonable and verifiable costs incurred by the District (i) with respect to the expert determination referenced above, and (ii) in replacing the Company with a suitable substitute contractor (including the costs incurred in carrying out any re-letting process).

— Applicable Termination Amount for Termination after the Design Build Period

If the Concession Agreement is terminated due to a Concessionaire Termination Event after the Design Build Period, the amount payable by the District as termination compensation shall be the greater of:

(a) an amount not to exceed the aggregate amount of Lenders' Liabilities then owing equal to:

(i) all Project Implementation Costs incurred by the Company until the Termination Date (excluding any prepayment costs and fees or make-whole amounts or breakage costs calculated by reference to the Financial Model as at Financial Close) as verified by the Independent Engineer;

less

(ii) the value of the accrued amortization of the Project Implementation Costs; and

(b) 80% of the Lenders' Liabilities,

in either case (a) or (b),

less

(c) the Projected Rectification Costs as determined, by reference to the Termination Date, by an independent third party expert appointed jointly by the Parties,

less

(d) the reasonable and verifiable costs incurred by the District (1) with respect to the expert determination referenced above, and (ii) in replacing the Company with a suitable substitute contractor (including the costs incurred in carrying out any re-letting process).

Applicable Termination Amount Following Termination for the RTD Termination Event or upon Failure to Deliver the Full Phase 1 Notice to Proceed

If the Concession Agreement is terminated due to an RTD Termination Event, or upon failure by the District to deliver the Full Phase 1 Notice to Proceed by December 31, 2011, or in the case the District elects to terminate the Concession Agreement if the Company has given a notice that the Company has exhausted the amounts the Company is allowed to spend on Work in the absence of the Full Phase 1 Notice to Proceed, the amount payable by the District as termination compensation shall equal the aggregate, calculated at the Termination Date (and re-calculated on each anniversary of the Termination Date until payment of the Applicable Termination Amount in full, in accordance with the provisions of the Concession Agreement) of:

(a) the Lenders' Liabilities as at that date;

(b) an amount equal to the Equity Market Value less the documented costs expended to conduct the independent third-party expert appraisal described in the definition of Equity Market Value;

(c) any subcontractor breakage costs; and

(d) any reasonable and verifiable costs and expenses of enforcement or protection or preservation of security properly incurred by the Lenders from the Termination Date to the date of payment by the District.

Applicable Termination Amount Following Termination for Extensive Force Majeure Event

If the Concession Agreement is terminated due to an Extensive Force Majeure Event, the amount payable by the District as termination compensation shall equal the aggregate, calculated at the Termination Date (and re-calculated on each anniversary of the Termination Date until payment of the Applicable Termination Amount in full, in accordance with the provisions of the Concession Agreement), of:

(a) the Lenders' Liabilities as at that date;

(b) all amounts paid by the Shareholders or their Affiliates in relation to the Project Implementation Costs in the form of capital contributions to the share capital of the Company or as Subordinated Debt up until the Termination Date less any amounts actually received by the Shareholders or their Affiliates from the Company as Distributions or any such amounts that were permitted under the Designated Credit Agreements to be paid to Shareholders but were not so paid as at the Termination Date; provided that all the amounts payable by the District described in this paragraph (b) shall be paid free and clear of any applicable tax imposed on or to be deducted by the Company; provided further that if the amount calculated in accordance with this paragraph (b) is less then zero, then such amount shall be deemed to equal zero;

(c) any subcontractor breakage costs; and

(d) any reasonable and verifiable costs and expenses of enforcement or protection or preservation of security properly incurred by the Lenders from the Termination Date to the date of payment by the District.

Handover and Reinstatement Work Requirements on the Expiry Date

The Company shall, on the Expiry Date, hand over and, to the extent not already owned by the District, transfer ownership of title to the Concessionaire-operated Components free of all Encumbrances and free of charge to the District in a condition which could reasonably be expected of an equivalent commuter rail system which has been in existence and operated for a period equal to the period during which the relevant Commuter Rail Project has been operated and which has been maintained in accordance with the O&M Standards during that period and is capable of complying with the O&M Standards (as amended pursuant to the terms of the Concession Agreement) for a period of (a) with respect to the Commuter Rail Network, three years, and (b) with respect to the Rolling Stock, one year, in each case from the Expiry Date.

Dispute Resolution

Designated Senior Representatives

Subject to certain exemptions, the disputes between the parties under the Concession Agreement will be resolved as follows: upon the referral by either Party of any Dispute for resolution, the Designated Senior Representative of each Party will meet and use all Reasonable Efforts to resolve the Dispute between the Parties for a period of at least 15 days; and if the Designated Senior Representatives of each Party are unable to resolve the Dispute within such 15-day period, unless the Parties agree to extend the period for negotiation between the Designated Senior Representatives, either Party may refer the Dispute:

(a) if such Dispute is within the categories of Disputes which may be resolved by a Dispute Resolution Panel, for resolution by the appropriate Dispute Resolution Panel; or

(b) if such Dispute is not within the categories of Disputes which may be resolved by a Dispute Resolution Panel, for resolution by the applicable authority.

Applicable Authority

If either Party wishes to refer a Dispute for resolution to an Applicable Authority, then either Party may make such reference:

(a) if the amount reasonably claimed by the referring Party equals or exceeds U.S.$25,000,000, to the District Court of Colorado for the City and County of Denver; or

(b) if the amount reasonably claimed by the referring Party is less than U.S.$25,000,000, for resolution through arbitration, as described below.

Arbitration

Arbitration shall be commenced by the service of a demand for arbitration, which specifies the nature of the controversy, the nature and extent of damages sought and compliance with any provisions of the Concession Agreement that may be required before arbitration may be requested. The arbitration shall be conducted pursuant to the American Arbitration Association Rules for Commercial Disputes or, if the Parties agree, the American Arbitration Association Rules for Construction Disputes, or any other rules or procedures mutually agreeable between the Parties. The arbitration of the Dispute will be conducted before a single arbitrator appointed by agreement of the Parties within 30 days of the initial Demand for Arbitration. The arbitration will take place in Denver, Colorado and shall be conducted in English. In the event that the Parties are unable to agree to an arbitrator within such 30-day period, the Party making the initial Demand for Arbitration shall submit the Demand for Arbitration to the American Arbitration Association, and the Parties shall thereafter proceed with the arbitration under the administration of the American Arbitration Association. Any arbitration of a Dispute referred by either

Party will not be limited to a review of any previous decision or finding of the Dispute Resolution Panel and shall be de novo. Discovery shall be permitted in accordance with the Uniform Arbitration Act, Section 13-22-217, Colorado Revised Statutes. The decision of the Dispute Resolution Panel may be admitted into evidence; if it is so admitted, it shall not be given any greater evidentiary weight than any other relevant and competent evidence submitted by the Parties. The Parties agree to act in good faith to ensure that the hearing is completed within one hundred and twenty (120) days from the date of the Demand for Arbitration, and the arbitrator shall be directed to issue a ruling within thirty (30) days of the date of the completion of the hearing. The arbitrator's award will be in accordance with the laws of the State of Colorado (without reference to choice of law rules) and the terms of the Concession Agreement, and will be in writing and supported by substantial evidence. The arbitrator is empowered to grant provisional remedies and equitable relief to the Parties as necessary and appropriate in the circumstances. To the extent such remedies or relief are necessary against third persons not party to the arbitration, the Parties may apply to a court of competent jurisdiction in the City and County of Denver, Colorado for the same. The arbitration award will provide for the costs of the arbitration. The award of the arbitrator will be final and binding, except as it may be corrected or vacated in accordance with the Uniform Arbitration Act, Section 13-22-217, Colorado Revised Statutes, and judgment may be entered thereon by a court of competent jurisdiction in the City and County of Denver, Colorado.

APPENDIX D

SUMMARY OF CERTAIN PROVISIONS OF THE LENDERS' DIRECT AGREEMENT

The following is a summary of selected provisions of the Lenders' Direct Agreement and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to and is subject to the full text of such agreement.

Overview

The execution of the Lenders' Direct Agreement by the District in favor of the Trustee is a condition precedent to the Phase 1 Effective Date and to the issuance of the Series 2010 Bonds.

Consent to Security

The District acknowledges the assignment of, and the grant of the security interest in and first-ranking lien over, all of the Company's right, title and interest in, to and under the Concession Agreement and the other Project Agreements to which the Company is a party and the grant of the security interest by DTH in its equity interests in the Company pursuant to the applicable Security Documents, which have been submitted to the District for its consent under the Concession Agreement.

Notice of Termination

The District shall give the Trustee written notice promptly upon becoming aware of the occurrence of any event giving rise to the District's right to (a) terminate or give notice terminating the Concession Agreement, or exercise any rights upon the occurrence of a Concessionaire Termination Event or any step-in rights under the Concession Agreement; or (b) suspend the Company's performance (including in connection with any insolvency or bankruptcy proceeding in relation to the Company) under the Concession Agreement.

Lender Notice

The Trustee shall notify the District (a) promptly upon becoming aware of any Default or Event of Default, specifying the circumstances and nature of the Default or Event of Default, and (b) of any decision to accelerate amounts outstanding or exercise any enforcement remedies under the Financing Documents.

Payments

The District shall make payment of any Service Payments, any Post-Termination Service Amounts and any other amounts payable by the District to the Company pursuant to the Concession Agreement (other than any amounts to be advanced by the District to fund Restoration Work) to an account designated by the Trustee, and the Company agrees that any payment made in accordance herewith shall constitute a complete discharge of the District's relevant payment obligations to the Company.

No Termination During Cure Period

The District agrees not to terminate or give notice terminating the Concession Agreement or exercise any corresponding termination rights; suspend the Company's performance under the Concession Agreement; or take or support any action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of, or any similar insolvency procedure in relation to, the Company, or for the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Company or for any part of the Company's Property, in each case in respect of a Concessionaire Termination Event, during any period available to the Company to rectify such Concessionaire Termination Event as set forth in the Concession Agreement or prior to the expiry of the period during which the Company or the Trustee, as the case may be, may effect a cure of any such Default (such period, the "Cure Period"); *provided* that the District shall not be prevented from taking actions permitted under the

Lenders' Direct Agreement in respect of any other prior Concessionaire Termination Event which has occurred and has not been remedied or waived.

During any Cure Period, the Trustee shall have the right (but not the obligation), at its sole option and discretion, to perform or arrange for the performance of any act, duty or obligation required of the Company under the Concession Agreement, or to cure any default of the Company thereunder, which performance or cure by or on behalf of the Trustee shall be accepted by the District in lieu of and in satisfaction of the Company's obligations under the Concession Agreement, but no such performance by or on behalf of the Trustee shall be construed as an assumption by the Trustee or any Person acting on the Trustee's behalf of any of the covenants, agreements or obligations of the Company under the Concession Agreement.

Step-In Notice

Provided that all unperformed obligations of the Company identified in a notice provided by the District shall have been remedied in full or waived by the District, the Trustee may give written notice to the District at any time during any Cure Period nominating any one of the Trustee, a Lender or any of its respective Affiliates or any Person approved by the District in its discretion, as a Qualified Substitute Concessionaire to become an additional obligor (an "Additional Obligor"), jointly and severally liable with the Company under the Concession Agreement and the Lenders' Direct Agreement on and from the date it executes an accession agreement and submits it to the District thereby commencing the step-in period, which such period shall terminate upon the earliest of (a) the approval of a substitute, (b) the date the Additional Obligor provides a step-out notice, (c) the termination of the Concession Agreement in accordance with the provisions of the Concession Agreement and the Lenders' Direct Agreement and (d) the expiry of the Concession Agreement.

Rights and Obligations on Step-in

During the step-in period, the Additional Obligor is deemed to be a party to the Concession Agreement and the Lenders' Direct Agreement, and shall be jointly and severally liable with the Company for the payment of all sums due from the Company and for the performance of all of the Company's obligations under the Concession Agreement. During such period, the District undertakes not to terminate or give notice terminating the Concession Agreement or exercise any corresponding termination rights; suspend the Company's performance under the Concession Agreement; or take or support any action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of, or any similar insolvency procedure in relation to, the Company, or for the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Company or for any part of the Company's Property, and to continue to make any Service Payments required under the Concession Agreement. The District shall owe its obligations under the Concession Agreement and the Lenders' Direct Agreement to the Company and such Additional Obligor jointly. The Company shall not be relieved from any of its obligations under the Concession Agreement by reason of any Additional Obligor becoming party to the Concession Agreement.

Step Out

Upon giving not less than 30 days' prior written notice to the District, an Additional Obligor may terminate and shall be released from its obligations to the District under the Concession Agreement and the Lenders' Direct Agreement except for any obligation or liability arising on or before the expiry of such notice. The obligations of the District to such Additional Obligor shall also terminate upon the expiry of such notice.

Substitution Proposal by the Lenders

The Trustee may give a substitution notice to the District at any time during any Cure Period or step-in period, in which the Trustee proposes to assign the rights and obligations of the Company under the Concession Agreement and the Lenders' Direct Agreement to a substitute designated by the Trustee. Such assignment shall be effective upon, after reviewing all information regarding the proposed substitute required to be provided by the Trustee, the approval by the District of the substitute as a Qualified Substitute Concessionaire. Upon approval, the substitute shall execute a substitute accession agreement and shall become a party to the Concession Agreement and the Lenders' Direct Agreement in place of the Company. The Company shall be immediately released from its

obligations which shall be immediately and automatically transferred to the substitute and the District shall (a) owe its obligations under the Concession Agreement and the Lenders' Direct Agreement to such substitute in place of the Company and any Additional Obligor and (b) enter into an equivalent direct agreement on substantially the same terms as the Lenders' Direct Agreement with the Company replaced by the substitute.

Revival of Remedies

If a District termination notice has been given, the grounds for that notice are continuing and have not been remedied or waived and the Cure Period relating thereto ends and (a) no Additional Obligor or substitute becomes a party to the Concession Agreement and the Lenders' Direct Agreement, or (b) an Additional Obligor becomes a party to the Concession Agreement and the Lenders' Direct Agreement but the step-in period relating to such Additional Obligor ends without a substitute becoming a party thereto, then, upon the expiry of such Cure Period or such step-in period, as the case may be, the District shall be entitled to act upon any and all grounds for termination or suspension available to it in relation to the Concession Agreement in respect of defaults under the Concession Agreement not remedied or waived; pursue any and all claims and exercise any and all remedies against the Company; and if and to the extent that it is then entitled to do so under the Concession Agreement, take or support the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of, or any similar insolvency procedure in relation to, the Company, or for the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Company or for any part of the Company's Property.

Obligation to Execute New Concession Agreement

If the Concession Agreement is rejected by a trustee or debtor-in-possession in, or terminated as a result of, any bankruptcy or insolvency proceeding involving the Company and, within 180 days after such rejection or termination, the Trustee shall request and certify in writing to the District that the Trustee or the Trustee's permitted designee or assignee, including a Qualified Substitute Concessionaire, intends to perform the obligations of the Company as required under the Concession Agreement, the District will execute and deliver to the Trustee a new concession and lease agreement on terms and conditions substantially similar to the Concession Agreement, pursuant to which the District shall agree to perform the obligations to have been performed by the District under the Concession Agreement for the balance of the remaining term of the Concession Agreement before giving effect to such rejection or termination.

Termination

The Lenders' Direct Agreement shall remain in effect until the earliest to occur of (a) the date on which all of the Company's obligations under the Finance Documents have been irrevocably discharged in full; (b) the time at which all of the District's obligations and liabilities under the Concession Agreement and the Lenders' Direct Agreement have expired or have been satisfied in accordance with the terms thereof; and (c) any assignment to a substitute has occurred and an equivalent direct agreement has been entered into.

Effect of Breach

Without prejudice to any rights a party may otherwise have, a breach of the Lenders' Direct Agreement shall not of itself give rise to a right to terminate the Concession Agreement.

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APPENDIX E

SUMMARY OF CERTAIN PROVISIONS OF THE DESIGN BUILD CONTRACT

The following is a summary of selected provisions of the Design Build Contract relating to the Project and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement.

Scope of Work

The Design Build Contractor's scope of work includes any and all work and services required or appropriate in connection with the design, engineering, procurement, including procurement of the Rolling Stock, review of the Sites and rights to use such Sites, procurement of additional land and any required real estate rights additional to the rights to use the Sites, Site preparation, construction, installation, commissioning, start up, demonstration, testing and completion of the Project, as well as provision of all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to complete and deliver to the Company the fully integrated and operational Eagle P3 Project such that the Company or the O&M Contractor may operate and maintain the Eagle P3 Project (collectively, the "Work"). Certain details of the Work are described in the Contract Documents but the Design Build Contractor is required to perform or cause to be performed all Work necessary to complete the Project generally described in or reasonably inferable from the Contract Documents, including the Early Work and all work and services required by the terms of the Concession Agreement relating to the design, construction, installation and completion of the Project, other than as expressly excluded in the Design Build Contract.

Term

The term of the Design Build Contractor's obligations under the Design Build Contract terminates upon achievement of the Revenue Service Commencement Date for each Commuter Rail Project and care, custody and control is turned over to the O&M Contractor, subject to the Design Build Contractor's warranty for defects and other provisions of the Design Build Contract that survive by their terms.

Performance Standards

The Design Build Contractor is required to comply with, and cause the Work and the Project (including the design, engineering, construction, testing and start up of each Commuter Rail Project and all equipment included within such project) to comply with, Good Industry Practice, the Applicable Requirements, the Applicable Standards, the Project Requirements, the Design Build Contract and the other Contract Documents and to construct and erect the Project in a good and workmanlike manner.

In addition to complying with all other applicable laws, in performing the Work the Design Build Contractor is required to comply, and cause all its subcontractors to comply, with certain specified federal and state law requirements set out on Exhibit S to the Design Build Contract, rules and regulations promulgated by the FTA and FRA applicable to the Work or the Eagle P3 Project and the FTA's Public-Private Partnership Pilot Program (Penta-P) (as described in 72 Fed. Reg. 2583 (January 10, 2007)).

Assumption of Risk and Responsibilities

Under the Design Build Contract, the Design Build Contractor has assumed and is required to comply with, on a back-to-back basis, all of the Company's obligations and liabilities set forth in the Concession Agreement to the extent they relate to the design, construction, installation and completion of the Project (other than those that the Company is prohibited by the Concession Agreement from delegating to the Design Build Contractor), and such obligations and liabilities are deemed included as part of the Design Build Contractor's obligations under the Design Build Contract. The Design Build Contract is not intended to, and does not, relieve the Company of its obligations under the Concession Agreement.

Except to the extent expressly allocated to the Company or the District or otherwise limited by the provisions of the Design Build Contract, all risks, costs and expenses in relation to the performance by the Design Build Contractor of its obligations under the Design Build Contract are allocated to, and accepted by, the Design Build Contractor as its entire and exclusive responsibility. As between the Company and the Design Build Contractor, the Design Build Contractor will be solely responsible for the selection, pricing and performance of all of its subcontractors and vendors and the acts, defaults, omissions, breaches and negligence of such subcontractors and vendors, *provided* that the replacement of the Rolling Stock Supply Contractor requires the Company's and the District's approval and the selection of vendors procuring certain material equipment is subject to the Company's approval.

General Obligations of the Design Build Contractor

Commencement of Work

If the Company notifies the Design Build Contractor that the District issued a Limited Phase 1 Notice to Proceed, then until the District issues the Full Phase 1 Notice to Proceed, the aggregate scheduled payments for the Phase 1 Work to which the Design Build Contractor is entitled will not exceed $150,000,000, as such amount may be increased or adjusted pursuant to the Concession Agreement. At least 20 days prior to the determination that the continuation of the Phase 1 Work would cause the scheduled payments to exceed the specified maximum value, the Design Build Contractor is required to notify the Company of such determination, and the Company will in turn notify the District. After receipt of such notice, the District may increase the specified maximum value or elect not to do so and suspend the Work or terminate the Concession Agreement.

Permitting

The Design Build Contractor is responsible for applying for, obtaining, renewing, replacing, extending the validity of and arranging necessary amendments to, all permits and approvals legally required in connection with its performance of the Design Build Contract, excluding only certain permits which the District is required to obtain pursuant to the Concession Agreement and those permits that are the responsibility of the O&M Contractor. Any delay or increase in the costs of the completion of the Work caused by the failure of or delay by the Design Build Contractor to apply for, obtain, renew, replace, extend the validity of or arrange necessary amendments to, any such permit or approval is at the Design Build Contractor's sole risk and does not constitute a Relief Event under the Design Build Contract.

Project Sites

Under the Concession Agreement, the District has agreed to obtain and provide Vacant Possession of each part of each Site at the District's cost within the time periods specified in the Concession Agreement. Upon receipt from the District, the Company will provide such Vacant Possession to the Design Build Contractor for purposes of performance of the Work, at which point the Design Build Contractor will have sole responsibility for such part of the Site. The Design Build Contractor may claim a scope change order in respect of a Relief Event if such Vacant Possession of any portion of any Site is not granted within the required time period. Should the Sites and the rights to use them not be sufficient for the Design Build Contractor to undertake and complete the Work in accordance with the Design Build Contract, the Design Build Contractor's rights against the Company are limited to such relief as is provided by the District to the Company under the Concession Agreement. If during the performance of the Work the Design Build Contractor requires additional land (other than temporary construction easements needed only during the performance of the Work) necessary for the completion of the Commuter Rail Network and there is no alternative design solution that would not require such additional land, the Company and the Design Build Contractor will request such additional land from the District for the Design Build Contractor to use at its sole risk, but the District provides no assurance that it can deliver such additional land.

Site Conditions

The Design Build Contractor is entitled to seek a scope change order for a Relief Event under the Design Build Contract if any Unidentified Archaeological Remains, any Unidentified Geological Obstructions, any

Unidentified Endangered Species or any Unidentified Environmental Conditions are discovered at a Project Site, each of which delays or increases the cost of completion of the Work or causes the Design Build Contractor to undertake additional Work; *provided* that such relief will be available to the Design Build Contractor only to the extent the District also provides relief to the Company for such event under the Concession Agreement.

If prior to or following the commencement of the Work, the Company or the Design Build Contractor discovers or causes the presence of an Environmental Condition on any Site or adjacent areas, the Design Build Contractor is required to carry out all work relating to the removal, remediation and clean-up at its cost in accordance with the procedures set forth in the Design Build Contract that are identical to the respective procedures set forth in the Concession Agreement; *provided* that if the District approves the clean-up report, the Design Build Contractor can seek reimbursement from the Company of the costs incurred relating to such clean-up. The Design Build Contractor is fully responsible and may not claim a scope change order for any hazardous materials brought on any Site by the Design Build Contractor or any of its subcontractors and for the proper handling, removal, transportation and disposal of such hazardous materials in accordance with the hazardous materials removal process specified in the Design Build Contract and otherwise in accordance with the Design Build Contract and the Concession Agreement.

Inspection

The Design Build Contractor will perform all inspection, expediting, quality surveillance and maintenance of traffic services that are required for performance of the Work on a timely basis, including inspecting all materials and equipment, both on and off the Sites that comprise or will comprise the Project or that are to be used in performance of the Work and will use reasonable efforts to secure for the Company, the District and the independent engineer the option of being present at all inspections off the Sites. The Company, the District and the independent engineer have the right to be present at and participate in all inspections of the Project, the Work or the Sites undertaken by the Design Build Contractor.

Traffic Management Plan

The Design Build Contractor is required to develop and implement, in coordination with the Company and the District, a plan setting forth a program for traffic management and related activities to be implemented in connection with the performance of the Work. The Design Build Contractor is responsible, at its own expense and with the necessary assistance of any relevant authority, for taking all necessary measures requested or required by any relevant authority for the management and facilitation of traffic or the use of routes which will be obstructed or hindered by its performance of the Work.

Labor Matters

The Design Build Contractor will provide all labor and personnel required in connection with the Work, including professional engineers licensed to perform engineering services, a Project engineer, lead structural, mechanical, electrical, instrumentation and control and civil engineers, cost and schedule engineers, and procurement, construction, start-up and training supervisors, all of whom have had appropriate experience and qualifications, as well as a Project director and the construction manager. The Design Build Contractor may not remove, replace or permit the release of any of its key personnel without the Company's prior written consent, except under limited circumstances. The Design Build Contractor may be liable for liquidated damages for failure to hire and retain such key personal in accordance with the Design Build Contract.

The Design Build Contractor will provide sufficient and appropriate first-aid facilities, sanitary facilities and potable water for the benefit of all personnel employed or expected to be present at each Site, maintained in a clean and orderly condition. The Design Build Contractor may conduct periodic searches of employees and other persons present at the Sites, including personal and professional possessions, automobiles, trucks, briefcases, lunchboxes and persons for the presence of firearms, alcohol and illegal drugs and will immediately notify the Company's Project manager if firearms, alcohol or illegal drugs are found. The Company has the right to require the immediate removal and permanent expulsion from the Sites and from any work associated with the Work of any person that at any time is found in possession of firearms, alcohol or illegal drugs.

The Design Build Contractor is responsible and liable for all labor relations matters of its personnel and subcontractor personnel relating to the Work and is required at all times to use reasonable efforts to maintain harmony among the unions (if any) and other personnel employed in connection with the Work and act in a reasonable, professional and courteous manner with the Company's contractors.

Subcontractors

Subject to the requirements of the Design Build Contract, the Design Build Contractor may enter into subcontracts for discrete portions of the Work, but may not subcontract the entire Work. The Design Build Contractor may not replace any material subcontractor without the approval of the Company and the District, as may be required by the Concession Agreement. In addition, the identity of vendors supplying certain material equipment requires the Company's approval. The Design Build Contractor is solely responsible and liable to the Company for any part of the Work that is performed by subcontractors and such subcontracting does not relieve the Design Build Contractor of any of its obligations, liabilities or responsibilities under the Design Build Contract. Each subcontract must provide that such subcontract may be freely assigned to the Company upon its request following termination of the Design Build Contract or to the District upon the request of the District if it exercises its right in the event of termination of the Concession Agreement to replace such subcontract on substantially similar terms as such subcontract. Subject to the applicable requirements described in the Design Build Contract, the Company has the right to require the Design Build Contractor to replace any subcontractor to the extent such subcontractor does not comply with the applicable provisions of the Design Build Contract. In addition, the Design Build Contractor is required to cause the Rolling Stock Supply Contract to be assignable to the Trustee for the benefit of the Owners of the Bonds, and use reasonable efforts to cause all other subcontracts to be so assignable.

Cooperation and Coordination with Other Parties

The Design Build Contractor will cooperate with the Company and the Company's contractors to coordinate the Work with the work of the Company's contractors. The Design Build Contractor will also attend any negotiations or meetings that the Company has with a third party, including the District, on a matter that is the Design Build Contractor's responsibility. The Design Build Contractor is required to carry out all Work, including the scheduling of all Work, in accordance with the requirements of the railroad agreements and without impairing, disrupting, interfering with or otherwise having an adverse impact on the activities or operations of any Heavy Rail Operator.

Company's Right to Carry Out Work

If the Design Build Contractor defaults or neglects to carry out the Work in accordance with the requirements of the Design Build Contract or if there are defects or deficiencies in the Work that the Design Build Contractor refuses or neglects to repair after receipt of notice from the Company to correct such default, neglect, defect or deficiency with diligence and promptness, the Company may correct same and deduct from the scheduled payments then or thereafter due the Design Build Contractor the out-of-pocket cost of correcting such default, neglect, defect or deficiency or the Design Build Contractor will pay the difference to the Company if the scheduled payments are not sufficient to cover such costs.

Design Build Contractor's Representations and Warranties

The Design Build Contractor makes representations and warranties for the benefit of the Company that are required to be made by the Company in the Concession Agreement for the benefit of the District (to the extent they relate to the Design Build Contractor and the Design Build Contract), including, without limitation, with respect to the sufficiency of the contract sum and the original baseline schedule to achieve the final completion of each Commuter Rail Project and associated Commuter Rail Service and completion of other portions of the Work by the Final Completion Deadline Date, due organization, power and authority, enforceability, no conflicts, no litigation and no change in financial condition.

Compensation

The lump sum fixed price payable to the Design Build Contractor for the performance of the Work if the Early Work commencement date has occurred but the Phase 1 Work commencement date does not occur is $9,611,801. If the Phase 1 Work commencement date has occurred but the Phase 2 Work commencement date does not occur, the lump sum fixed price is $1,003,071,140. Finally, if the Phase 2 Work commencement date has occurred, the lump sum fixed price payable to the Design Build Contractor is $1,269,196,983, which represents compensation in full for the performance of the Early Work, the Phase 1 Work and the Phase 2 Work. Only compensation for performance of the Phase 2 Work is subject to an adjustment equal to 98.5% of any adjustments to the maximum annual Phase 1 and Phase 2 construction payment amounts made for indexed inflation pursuant to the formulas set forth in the Concession Agreement from March 2010 until the Phase 2 Work commencement date.

Other than for inflation as described above, the contract sum is not subject to adjustment for any reason except pursuant to a scope change order authorized by the Company or which the Design Build Contractor is entitled to claim as specified in the Design Build Contract. Except as otherwise expressly provided in the Design Build Contract, the Concession Agreement or by applicable law, any and all costs and expenses incurred by the Design Build Contractor for and in respect of the Work in excess of the contract price are for the sole and exclusive account of, and are borne by, the Design Build Contractor, and the Company has no liability or obligation relating to any such costs and expenses.

Payment Schedule

Payments in monthly installments to be made by the Company to the Design Build Contractor with respect to the Work are based on the percentage of the Work actually performed subject to the maximum cumulative drawdown schedule provided in the Design Build Contract. Subject to limited exceptions set forth in the Design Build Contract, the Design Build Contractor will be paid for the performance of the Early Work on the Phase 1 Work commencement date but only if such commencement date actually occurs.

The Design Build Contractor has to submit to the Company a payment request consisting of supporting documentation specified in the Design Build Contract no later than the 5th day of each month. Within 30 days following receipt by the Company of the request for payment that is in compliance with the requirements specified in the Design Build Contract, the Company is required to pay the Design Build Contractor the undisputed portion of the scheduled payment. The Company has the right to withhold payments to the Design Build Contractor for several reasons, including due to the Design Build Contractor's failure to pay its subcontractors, the occurrence of an event that would permit termination for cause by the Company and its continuance beyond the applicable cure period and the District's failure to pay the Company any construction payment under the Concession Agreement allocable to the scheduled payment to the Design Build Contractor.

The Company is required to pay the unpaid balance of the contract sum as the final payment to the Design Build Contractor within 30 days after the completion of all Work in connection with the Project in accordance with the Design Build Contract, *provided* that the Design Build Contractor has satisfied all other conditions to such payment specified in the Design Build Contract.

Schedule of Performance

Completion Deadlines

Subject only to the adjustments permitted in accordance with the Design Build Contract, the Design Build Contractor is required to achieve the Revenue Service Commencement Date for each Commuter Rail Service and the associated Commuter Rail Project no later than 5 months prior to the Revenue Service Deadline Date. The Design Build Contractor is also required to achieve the final completion date for each Commuter Rail Project on or before the Final Completion Deadline Date, which is 15 months after the final Revenue Service Commencement Date. In addition, if the District requires the Company to commence the performance of the Early Work before the Phase 1 effective date and the Company in turn requires the Design Build Contractor to do same, the Design Build

Contractor is required to complete the Early Work on or before the Early Work completion deadline date, which is the later of December 31, 2012 and the date that is 30 months after the Early Work commences.

Recovery Plans

If the independent engineer certifies to the Company that there is no reasonable prospect that the Design Build Contractor will achieve the Revenue Service Commencement Date for any Commuter Rail Project no later than 5 months prior to the Revenue Service Deadline Date, any material inaccuracy or discrepancy in the Design Builder's monthly progress reports or other periodic reporting is found or the Design Build Contractor is in material default of any term of the Design Build Contract, the Company may require the Design Build Contractor to propose a reasonable recovery plan to cause the Revenue Service Commencement Date to be achieved by the required deadline or otherwise cure the deficiency.

In addition, if the independent engineer certifies that the Design Build Contractor has failed to achieve any material design build milestone by the then-effective target completion date, the Company may require the Design Build Contractor to propose a reasonable recovery plan to cause the construction milestone to be achieved within 6 months of the target completion date and the Revenue Service Commencement Date to be achieved at least 5 months prior to the Revenue Service Deadline Date. If the independent engineer further certifies that the Design Build Contractor has failed to achieve the target completion date for any material construction milestone within the time period required in the recovery plan, the Company may require the Design Build Contractor to propose an updated plan to cause such milestone to be achieved within 12 months of the respective target completion date and the Revenue Service Commencement Date to be achieved at least 5 months prior to the Revenue Service Deadline Date.

Liquidated Damages

If the Design Build Contractor has not achieved the Revenue Service Commencement Date with respect to any of the Commuter Rail Projects by January 29, 2016 for the East Corridor Service, July 1, 2016 for the Gold Line Service and March 31, 2016 for the Northwest Rail Electrified Segment Service, then for each calendar day (or portion of a calendar day) that the Design Build Contractor fails to achieve the Revenue Service Commencement Date after such dates the Design Build Contractor will pay the Company liquidated damages in the following amounts:

(a) with respect to the East Corridor Project:

(i) $112,574 per day until December 31, 2016, and

(ii) $290,369 per day during the period following December 31, 2016; and

(b) with respect to the Gold Line Project, subject to the issuance of the Phase 2 notice to proceed:

(i) $23,382 per day until December 31, 2016, and

(ii) $0 (zero) per day during the period following December 31, 2016; and

(c) with respect to the Northwest Rail Electrified Segment Project, subject to the issuance of the Phase 2 notice to proceed:

(i) $6,632 per day until December 31, 2016, and

(ii) $0 (zero) per day during the period following December 31, 2016.

The above delay damages are subject to adjustment up or down, to be agreed by the Company and the Design Build Contractor in good faith, upon the Company's closing of third-party debt financing to fund all Project uses identified at the financial closing that are not paid from the District's construction payments or equity

contributions from the owners of the Company, subject to there being no adjustment upward by more than 10%. The Design Build Contractor's liability for the above-described delay damages is capped at 10% of the contract sum but the Design Build Contractor may continue paying such damages exceeding the cap if the Company agrees to forestall exercise of its termination right during the period to be agreed by the Company and the Design Build Contractor.

The Design Build Contractor shall be entitled, after the final Revenue Service Commencement Date has been achieved with respect to the Commuter Rail Projects, to a cash rebate in the amount of the delay damages paid to the Company in excess of (i) the aggregate interest and principal paid or payable on the Bonds, (ii) the aggregate Monthly Operator's Fees and Renewal Work Payments paid under the O&M Contract, (iii) all reasonable costs and expenses of the Company, including those attributable to any delay in achieving revenue service commencement, and (iv) any equity distributions that have been or will be foregone as a result of any such delay in achieving revenue service commencement, in each case, during the period commencing on the Revenue Service Target Date of the East Corridor Service and continuing through and including the date of the final Revenue Service Commencement Date to occur with respect to the Commuter Rail Services.

Except to the extent resulting from a Concessionaire-caused event, the Design Build Contractor must also pay certain liquidated damages that may be payable by the Company pursuant to the Concession Agreement for each calendar day (or portion of a calendar day) that the Early Work completion date occurs after the Early Work completion deadline date. These delay damages may not exceed 5% of the sum of the maximum annual Early Work construction payment amounts set forth in the Concession Agreement; however, the Design Build Contractor's failure to perform due to shortages in personnel, materials and equipment will not be considered excusable.

The Design Build Contractor also agrees to pay or reimburse the Company for liquidated damages that may be payable to the District by the Company in accordance with the Concession Agreement, in connection with the delivery and commissioning of Rolling Stock Option Cars as a result of a delay attributable to the Design Build Contractor, in the amounts assessed by the District and as of the dates that such damages are due and payable by the Company to the District under the Concession Agreement. If, despite using best efforts, the Design Build Contractor is unable to pay the Company such damages before the date that the same are due and payable to the District, the Design Build Contractor will reimburse the Company for all liquidated damages paid to the District promptly thereafter, together with interest accrued at the specified rate. If the Company is excused from payment of liquidated damages under the Concession Agreement because either the District waives such damages or the dispute resolution process under the Concession Agreement results in a determination that such damages are not owed, then the Design Build Contractor will be excused from paying any liquidated damages.

Guaranty

On the date of the execution of the Design Build Contract, Fluor Corporation, a Delaware corporation, Balfour Beatty, LLC, a Delaware limited liability company, and Balfour Beatty plc, a public limited company organized under the laws of England, will each execute and deliver a parent company guaranty in favor of the Company, in the form agreed in the Design Build Contract, guaranteeing all the obligations of the Design Build Contractor under the Design Build Contract.

Performance Security

After the District provides the Company with a request for the Early Work security pursuant to the Concession Agreement no less than 14 days prior to issuing the Early Work notice to proceed, the Company will notify the Design Build Contractor of such request and the Design Build Contractor will provide to the District, within 10 days after its receipt of the notice, such security for the performance by the Design Build Contractor of the Company's obligations under the Concession Agreement relating to the Early Work. Such security will be in the amount required by the Concession Agreement and may be in the form of a bond naming the District and the Company as dual obligees or a letter of credit satisfying requirements specified in Volume I of the RFP. The Early Work security must be in place until the Early Work is completed or the Design Build Contractor provides construction security described below, whichever occurs first.

On or before the Phase 1 Work commencement date, the Design Build Contractor will provide the Company, as partial security for the obligations of Denver Transit Constructors, LLC (the Design Build Contractor's subcontractor) and the Design Build Contractor's obligations under the Design Build Contract, with a bond in the form agreed in the Design Build Contract in favor of the District, the Company, the Design Build Contractor and the Trustee for the benefit of the Owners of the Bonds as obligees in a penal amount equal to not less than the greater of (a) 50% of the total Earned Value of the Work to be performed under the respective subcontract and the Design Build Contract in any calendar year and (b) 5% of the total Earned Value for all Work not yet performed under such subcontract and the Design Build Contract, in each case calculated in accordance with the Design Build Contract. The Company will provide such bond to the District in order to satisfy its obligation to provide the construction security required under the Concession Agreement. The Company will return such security to the Design Build Contractor upon its receipt of the same from the District, except to the extent of any unresolved claims by the Company against the Design Build Contractor.

In addition, on the effective date of Phase 1, the Design Build Contractor will provide the Company with an on-demand letter of credit in the form agreed in the Design Build Contract in an amount of 6% of the contract sum as partial security for payment by the Design Build Contractor of all sums to the Company, including the liquidated damages payable to the District under the Concession Agreement, and for the Design Build Contractor's full and timely performance under the Design Build Contract. By no later than the 10th business day following the Phase 2 Work commencement date, the amount of such letter of credit must be increased to 6% of the contract sum as at the Phase 2 Work commencement date. As of the Revenue Service Commencement Date for the East Corridor Project, so long as the Design Build Contractor is not in default under the Design Build Contract, the amount of the letter of credit may be reduced to 3% of the contract sum, to remain in place until the last final completion date of the Commuter Rail Project or the Final Completion Deadline Date, as applicable. Thereafter, the Design Build Contractor is required to procure and maintain a warranty bond equal to 10% of the contract sum until the later of the expiration of the last warranty period or the resolution of any open warranty claims.

Limitation on Design Build Contractor's Liability

The maximum aggregate liability of the Design Build Contractor pursuant to the Design Build Contract must not exceed 45% of the contract sum. This limitation excludes the Design Build Contractor's liability for: (a) the proceeds of insurance limited to the amounts required to be maintained by the Design Build Contractor pursuant to the Design Build Contract; (b) costs and liabilities arising from gross negligence, willful misconduct or actual fraud of the Design Build Contractor, abandonment of the Work or the Design Build Contractor's default relating to, among other things, insolvency and the failure to pay undisputed amounts due and owing; (c) the Design Build Contractor's breach of its obligation to pass to the District title to the Project free and clear of all liens, claims and other security interests; (d) the Design Build Contractor's indemnity obligations; or (e) sums paid by the Design Build Contractor to the O&M Contractor under the Interface Agreement. The Design Build Contractor and the Company also agree to waive consequential damages, except as specified in the Design Build Contract.

Warranties

General Warranties

The Design Build Contractor warrants and guarantees to the Company and the District that:

(a) the design for the Project will comply with the requirements of the Design Build Contract, the Concession Agreement and the Project Requirements;

(b) all Work will be of good quality and conform to Good Industry Practice, the Applicable Requirements, the Applicable Standards and the Project Requirements contained in the scope of work and other applicable agreements and contracts, free of defects in material, equipment and workmanship and the completed Work shall be free of defects (including latent defects) and deficiencies in design, materials, equipment and workmanship;

(c) the Rolling Stock will be new or of good quality and conform to the Applicable Requirements, the Applicable Standards and the Project Requirements contained in the scope of work and other applicable agreements and contracts, free of defects in material, equipment and workmanship; and

(d) the final as-built drawings and documentation will be accurate and complete and will comply with applicable Contract Documents and accurately reflect the condition of each Commuter Rail Project as of the applicable final completion date.

The Design Build Contractor's breach of the warranties will be a breach of the Design Build Contract and may result in the Design Build Contractor's event of default under the Design Build Contract.

Warranty Periods

The warranty periods for the Project are as follows:

(a) with respect to the Gold Line Project, East Corridor Project and Northwest Rail Electrified Segment Project, 18 months following the Revenue Service Commencement Date for each respective project;

(b) with respect to the commuter rail maintenance facility, 18 months following the date on which the Company accepts final completion of the Design Build Contractor's Work related to the facility;

(c) with respect to the Rolling Stock, two years following the date on which the Design Build Contractor accepts delivery of each car in accordance with the Rolling Stock Supply Contract; and

(d) in the case of all design, construction and installation activities necessary for the full functionality of the DUS Rail Segment not provided as part of the DUS Infrastructure or the automated fare system equipment, 18 months following the date on which the Company accepts the Design Build Contractor's related Work.

These warranty periods will be extended for an additional 12 months from the date of repair or replacement solely with respect to any portion of the Design Build Contractor's Work that is repaired or replaced during the final year of an initial warranty period. In addition, the Design Build Contractor will pass through to the Company any warranties from third-party suppliers, manufacturers or subcontractors (including the Rolling Stock Supply Contractor) longer than the warranty periods identified above.

Early Work Warranties

The Design Build Contractor also agrees to comply with the Early Work warranties contained in the Concession Agreement in the event that the Design Build Contractor commences Early Work and the Phase 1 work commencement date fails to occur.

Intellectual Property Warranties

The Design Build Contractor also warrants and guarantees, among other things, that (a) all work product and components of such work product developed by the Design Build Contractor, the business tools, methods, technology, proprietary products, components, subsystems and other items and other intellectual property existing, owned and used by the Design Build Contractor and subcontractors, and all materials, information, technology and methods owned by third parties which are incorporated into the Design Build Contractor's Work are original to the Design Build Contractor and do not infringe on the intellectual property rights of others; (b) the Company's or the District's use of the foregoing will not infringe on the intellectual property rights of any third parties; and (c) the Design Build Contractor's performance under the Design Build Contract and other relevant agreements will not infringe on the intellectual property rights of any third parties. These representations, warranties and guarantees related to intellectual property will survive the last final completion date to occur with respect to the Project or the termination of the Design Build Contract.

Indemnification

Design Build Contractor's Indemnity in Favor of the District Indemnitees

Subject to the limitations specified in the Design Build Contract, the Design Build Contractor will indemnify the District and, to the extent required by the Project agreements certain Project third parties, from all damages (excluding certain losses related to lost revenue to the District resulting from a failure to collect passenger fares for the Commuter Rail Services through the fare system equipment) to the extent arising out of (a) any act or omission of or breach by the Design Build Contractor in connection with the Concession Agreement, the Design Build Contract and the other Project agreements or (b) any willful misconduct of the Design Build Contractor, including in each case any damages suffered or incurred in respect of personal injury (including injury resulting in death), any loss of or damage to any real or personal property or any fines or penalties imposed on the District or the Company by relevant authorities that result from the Design Build Contractor's breach of or failure to comply with the Applicable Requirements or its obligations under the Concession Agreement, the Design Build Contract and/or the other Project agreements.

Design Build Contractor's Indemnity in Favor of Company's Indemnified Parties

Subject to the limitations specified in the Design Build Contract, the Design Build Contractor will indemnify the Company, the Financing Parties and the lenders' Technical Advisor from all damages, including without limitation reasonable attorney's fees, directly or indirectly arising out of (a) claims by other persons associated with the design, procurement or construction of the Project, (b) claims of any person for any damage to or destruction of property other than the Project, and (c) claims for death of or bodily injury to, any person, in each case to the extent caused or contributed to by the fault, intentional act, negligence or strict liability of the Design Build Contractor, its subcontractors or any of their directors, officers, agents, employees, successors and assigns in the performance of the Work or by any other breach by them of the Contract Documents or the Project requirements.

The Design Build Contractor will also indemnify the Company from all damages in favor of any person with respect to payments of taxes relating to the Design Build Contractor's income or other taxes required to be paid by the Design Build Contractor without reimbursement, or nonpayment of amounts due as a result of furnishing materials or services to the Design Build Contractor or any subcontractor in connection with the Work to the extent that the Company has paid the Design Build Contractor all undisputed amounts then due and payable, and any liens resulting from such nonpayment.

Intellectual Property Indemnification

The Design Build Contract will also indemnify the Company and the District against all damages, whether direct or indirect, that they incur arising out of a breach of the Design Build Contractor's warranties related to intellectual property or any claims of infringement of intellectual property rights, or if the Company's or the District's rights and interests provided under the Design Build Contract related to intellectual property are at any time determined by a court of law or other competent authority to be invalid, ineffective or impaired in any material respect.

Company's Indemnity in Favor of the Design Build Contractor

The Company will indemnify the Design Build Contractor, each of its subsidiaries and affiliates, and the directors, officers, agents, employees, successors and assigns of each of them, from and against any and all damages directly or indirectly arising out of, resulting from or related to third-party claims associated with the performance by the Company of its obligations hereunder, including without limitation any damage to or destruction of property of, or death of or bodily injury to, any person, to the extent caused by or contributed to by the Company's fault, intentional act, negligence or strict liability in the performance of the Company's obligations under the Design Build Contract or by any breach by the Company of its obligations under the Design Build Contract.

Scope Changes

General

Any material addition to, deletion from, suspension of or other modification to, the quality, function or intent of the Project as delineated in the scope document or a material change to the requirements of the Design Build Contract will be evidenced by a written scope change order executed by the Company and the Design Build Contractor adjusting one or more of the scope of the Work, the contract sum, the payment and values schedule, the Project schedule and/or applicable target dates and deadlines. Under the circumstances and to the extent specified in the Design Build Contract, the Design Build Contractor is entitled to a scope change order arising from (a) delays caused by the events that qualify under the Concession Agreement as Relief Events to the extent permitted by the Design Build Contract, (b) certain changes in law that constitute a Discriminatory Change in Law or has a Change in Law Effect, the effects of which cannot be overcome by the Design Build Contractor in the absence of incurring material costs or impacting the critical path, (c) specified force majeure events, and (d) events caused by the Company that adversely affect the Design Build Contractor's performance of the Work, the effects of which cannot be overcome by the Design Build Contractor in the absence of incurring material costs of impacting the critical path. All scope changes shall be subject to the District's consent, except as provided in the Design Build Contract.

Company-Initiated Scope Changes

If the Company wishes to initiate a scope change, it must give the Design Build Contractor a proposal request detailing the change and the Design Build Contractor is required to prepare a change order proposal with the supporting documentation for the Company's approval and in certain cases, the District's approval, upon which the Company will issue and execute the scope change order. If the Company does not approve the Design Build Contractor's change order proposal, the Company may either issue a work order to the Design Build Contractor directing the Design Build Contractor to proceed with the specified scope change or withdraw its proposal request and pay the Design Build Contractor reasonable costs incurred in the preparation of the change order proposal.

Contractor-Initiated Scope Changes

The Design Build Contractor will not make any changes to, or deviate in any way from, the terms of the Design Build Contract and the Project requirements in the carrying out of the Work except as permitted under the procedures for the scope change orders. Any change proposed by the Design Build Contractor is subject to the Company's approval. The Company will be under no obligation to approve the Design Build Contractor's change order proposal resulting from the occurrence of a Relief Event except to the extent of any relief provided to Concessionaire by the District under the Concession Agreement corresponding to such scope change, but the Company will, subject to resolution of any objections to the change order proposal, provide the Design Build Contractor with the benefit of any such relief granted by the District in respect of such scope change order. To the extent that any scope change initiated by the Design Build Contractor results in the reduction in cost of the Project to the District, the Design Build Contractor will be entitled to a scope change order increasing the contract sum by an amount equal to 92.5% of the cost savings received by the Company from the District.

District-Initiated Scope Change

In the event that the District requires a scope change for any change or alteration to the final Project design, the scope of the Work, the operation and maintenance specifications or the acceleration of any element of the Work, the District will submit the request for such change to the Company in accordance with the Concession Agreement, which the Company will forward to the Design Build Contractor. The Design Build Contractor is required to prepare a preliminary written response within 20 days estimating cost and impact of the proposed change and no later than 15 days following receipt of such response by the District, the District is to provide the Company with the change summary notice, and the Company and the Design Build Contractor will negotiate a mutually acceptable scope change order based on such notice. The Design Build Contractor is responsible for preparing a change report within 25 days following the receipt of the change summary notice (or within such other time period specified in the Design Build Contract). Under the Concession Agreement, the District has the right to instruct the Company in the change summary notice to begin to implement the proposed change pending preparation and approval of the related change report, in which case the Design Build Contractor is required to implement such change. The Design Build

Contractor may claim a related scope change order for a Relief Event but will not be compensated for related expenses exceeding the amount set forth in the District's change summary as the Company is not entitled to such compensation under the Concession Agreement or be granted any extension of time exceeding, or in the case of a request to accelerate the Work any reduction in time less than, the fixed period set forth in the District's change summary. If the District does not agree with any matter set out in the change report, it may elect to implement the proposed change itself or hire a third party to do so.

Directive Letters

In the event of any dispute between the District and the Company regarding the scope of the Company's obligations under the Concession Agreement, the District may issue a directive letter to the Company directing the Company to perform the work in question, notwithstanding such dispute. Upon the Company's receipt of any such directive letter, the Company will issue a Work order to the Design Build Contractor and the Design Build Contractor will be required to proceed immediately to implement and perform the Work in question pending resolution of the dispute between the Company and the District. If it is determined that the Company was not required to perform the Work identified in a directive letter, such directive letter will be deemed to be a scope change order implementing the District's proposed scope change and the Design Build Contractor will be entitled to reimbursement of incurred costs in connection with such directive letter.

Insurance

The Design Build Contractor is required to provide at its own cost the insurance coverages specified in the Concession Agreement and enroll in the owner-controlled insurance program procured by the District. All deductibles and premiums under all policies of insurance and all self-insured retentions covering the Project during the design build period are the responsibility of the Design Build Contractor, except under limited circumstances specified in the Concession Agreement.

Suspension Rights

Company's Right to Suspend the Work

The Company has the right to suspend performance or completion of all or any part of the Work but solely to the extent resulting from the Company's failure to satisfy certain conditions precedent under the Designated Credit Agreement and subject to the Company's demonstrating that it has the ability to pay the applicable termination payment to the Design Build Contractor resulting from the suspension. If the Company suspends the Work under the Design Build Contract, it will authorize a scope change order or, at its option, a Work order if appropriate, making required adjustments to one or more of the relevant dates under the Design Build Contract, the project schedule and the contract sum, as appropriate. The Design Build Contractor is required to mitigate to the fullest extent reasonably possible any additional expenses to be borne by the Company as a result of suspension of the Work. If all Work is suspended for a period of 90 days in the aggregate, the Design Build Contractor has the right to terminate the Design Build Contract upon prior written notice to the Company, upon which the Company is required to pay the termination payment to the Design Build Contractor as its sole and exclusive remedy. Such termination payment will consist of the portion of the contract sum due to the Design Build Contractor for the Work completed up to the termination date and the Design Build Contractor's breakage costs.

In addition to the above described suspension rights, under the Concession Agreement, if the District reasonably anticipates that the board of directors of the District will not appropriate sufficient funds that are payable or expected to be payable during the following fiscal year in the District's annual budget for such fiscal year (and the expected shortfall is not related to any proposed changes that would suspend or partially suspend the Work), the District must notify the Company, which will in turn notify the Design Build Contractor, no later than 45 days prior to the start of the fiscal year of the amount of such shortfall. The Design Build Contractor must then suspend Work (or, in the case of a partial shortfall, may suspend the Work to the extent and in the manner directed by the District) as soon as reasonably practicable under the circumstances until the Company notifies it that amounts relating to the shortfall have been included in the District's annual budget for such fiscal year. Any such suspension or partial suspension will be treated as a scope change proposed by the District.

The Company will also be required to suspend the performance of the Work if the District's board of directors fails to include any appropriation obligations with respect to the Project that are payable to the Company under the Concession Agreement for the following fiscal year in its annual budget for such fiscal year. Upon receipt of written notice from the Company directing the Design Build Contractor to suspend the Work for the foregoing reason, the Design Build Contractor is required to immediately suspend the Work on January 1 of the fiscal year for which adequate funds have not been included in such annual budget and such suspension will be treated as a proposed change by the District to the Work.

During the continuation of a suspension of the Work by the Company, scheduled payments to the Design Build Contractor will be reduced by an amount equal to the avoidable costs which are not being incurred by the Design Build Contractor as a result of such suspension.

The District's Right to Suspend the Work

The District is entitled under the Concession Agreement to order the suspension of any part of the Work under the circumstances specified in the Concession Agreement. The Design Build Contractor is required to fully cooperate with the District in its exercise of such suspension rights.

Termination Rights

Termination for Design Build Contractor's Event of Default

The Company may terminate the Design Build Contract for any of the following reasons, each of which constitutes a Design Build Contractor's event of default:

(a) involuntary liquidation, reorganization or similar relief with respect to the Design Build Contractor, any of its guarantors or the Rolling Stock Supply Contractor that continues undismissed for 60 or more days or an order approving same is entered, or voluntary liquidation, reorganization or similar relief with respect to the Design Build Contractor, any of its guarantors or the Rolling Stock Supply Contractor, unless, in each case, in the event the guarantor or the Rolling Stock Supply Contractor is affected by such event the Design Build Contractor replaces such guarantor or the Rolling Stock Supply Contractor within 30 days; however, if a guarantor other than Fluor Corporation is the subject of involuntary liquidation, reorganization or similar relief, then the Design Build Contractor must secure a replacement guaranty only if the lenders' technical adviser determines that the ability of Fluor Corporation to honor its guaranty is materially less than its ability to do so as of the execution date of the Design Build Contract;

(b) non-payment of undisputed amounts by the Design Build Contractor to the Company within 30 days following notice;

(c) non-payment of the amounts owed by the Design Build Contractor to its subcontractors, other than due to the failure of the Company to make payments due to the Design Build Contractor, that is not remedied within the time specified in applicable law;

(d) non-compliance by the Design Build Contractor in any material respect with any requirements for the performance of the Work that is not remedied within 15 days following notice by the Company or, if such failure is not capable of being remedied within such time, if the Design Build Contractor has not commenced a cure within such time and thereafter diligently pursued the same, not to exceed an additional 15 days;

(e) failure by the Design Build Contractor to obtain the revenue service commencement certificate for any Commuter Rail Project no later than 5 months prior to the deadline (or if the independent engineer certifies that there is no reasonable prospect of the Design Build Contractor obtaining such certificate within such time), or to achieve the final completion date for any Commuter Rail Project by the applicable Final Completion Deadline Date;

(f) failure by the Design Build Contractor to deliver or diligently implement a recovery plan that is not remedied within 30 days following notice, a design build milestone recovery plan that is not remedied within 90

days following notice, or an updated design build milestone recovery plan that is not remedied within 90 days following notice;

(g) abandonment of the Work for a period of 30 consecutive days;

(h) failure to provide or maintain in effect any of the performance securities or guaranties in the amount and terms required that is not remedied within 5 days following notice;

(i) failure to comply with any material insurance-related requirements that is not remedied within 20 days following notice;

(j) failure to commence the Work within 10 days following the Phase 1 Work commencement date that is not remedied within 5 days following notice;

(k) any of the representations or warranties of the Design Build Contractor are proven to have been materially untrue or incorrect when made to the extent that such breach of representation or warranty has a material adverse effect on the Work or the Project as a whole or the interests of the Company, and such failure is not remedied within 30 days following notice;

(l) a change in control of the Design Build Contractor or Rolling Stock Supply Contractor occurs or is proposed to occur (other than any such change resulting from a bona fide open market transaction in securities effected on a recognized public stock exchange) and the District requests termination of the Design Build Contract pursuant to the Concession Agreement;

(m) any Design Build Contractor's subcontract ceases to be in full force and effect or is amended in any material respect, subject to limited exceptions specified in the Design Build Contract and to the extent set forth in the Design Build Contract;

(n) the Rolling Stock Supply Contract is terminated during the design-build period and the Design Build Contractor has not entered into a replacement contract on substantially similar terms with a reputable counterparty reasonably acceptable to the Company and the District within 30 days following the date of termination of the Rolling Stock Supply Contract; and

(o) the Design Build Contractor is otherwise in default of any other provision of, or has failed to perform obligations under, the Contract Documents and such failure continues for 30 days after notice or, if such failure is not capable of being remedied within such time, if the Design Build Contractor has not commenced a cure within such time and thereafter diligently pursued the same, not to exceed an additional 90 days unless the failure is not susceptible of cure; *provided*, in the case of any such default that has a corresponding Company's termination event under the Concession Agreement, the cure period shall be 20 days.

If the Company terminates the Design Build Contract pursuant to any of the events of default described above, the Design Build Contractor shall be liable to the Company for the costs reasonably incurred by the Company in replacing the Design Build Contractor to complete the Work and all direct damages suffered or incurred by the Company as a result of such termination, including damages and expenses incurred by the Company under the Concession Agreement, the Designated Credit Agreements or any other related agreement as a result of such termination. The Company has the right to hire another contractor to complete the Work and the Design Build Contractor will be required to pay for the costs of such completion and damages suffered by the Company to the extent the same exceed the contract sum.

The District's Termination of the Concession Agreement

If the District terminates the Concession Agreement as a result of a breach by the Design Build Contractor of its obligations under the Design Build Contract, including its obligations to fulfill the Company's obligations under the Concession Agreement, to the extent such termination was a result of breach by the Design Build Contractor of the Design Build Contract not caused by the Company, the Design Build Contractor will compensate

the Company for any damages incurred by the Company as a result of such termination, including return of (but not return on) any equity invested in the Company and any amounts required to be paid by the Company to the Financing Parties in respect of the financing of the Project as a result of such termination. The Design Build Contract will terminate upon any termination of the Concession Agreement by the District due to a Company's event of default.

Termination for Concessionaire's Event of Default

The Design Build Contractor may terminate the Design Build Contract for any of the following reasons, each of which constitutes the Concessionaire's event of default:

(a) the Company makes a general assignment for the benefit of its creditors, is generally unable to pay its debts as they become due, or becomes the subject of any voluntary or involuntary bankruptcy, insolvency or other debtor relief proceeding and, in the case of any such involuntary proceeding, it is not dismissed or stayed 60 days;

(b) failure by the Company to pay to the Design Build Contractor any portion of an undisputed scheduled payment (unless such failure results from the failure of the District to make any corresponding payment due under the Concession Agreement) that continues for 10 days after notice of such non-payment; and

(c) only if relief cannot be provided by issuance of a scope change order, the Company otherwise is in default of its other material obligations under the Contract Documents and such failure continues for 30 days after notice or, if such failure is not capable of being cured within such period, if the Company has not commenced the cure within such period and thereafter diligently pursued the same, not to exceed an additional 90 days unless the failure is not susceptible of cure.

If the event of default described in clause (b) above occurs, the Design Build Contractor may suspend performance of the Work and, if the Company fails to pay the undisputed portion of the scheduled payment, together with the Design Build Contractor's cost of suspension, within 90 days after notice of such non-payment, terminate the Design Build Contract upon 7 business days' prior notice. In the case of any other event of default by the Company, the Design Build Contractor may terminate the Design Build Contract upon 10 business days' prior notice. Any right of the Design Build Contractor to terminate the Design Build Contract is subject to all cure rights of the District under the Concession Agreement and of the Financing Parties. In the event the Design Build Contractor terminates the Design Build Contract due to any of the events of default described above, the Company is required to pay the termination payment to the Design Build Contractor consisting of the portion of the contract sum due to the Design Build Contractor for the Work completed up to the termination date and the Design Build Contractor's breakage costs. The same termination payment is also payable to the Design Build Contractor by the Company if the Concession Agreement is terminated as a result of a Company's event of default under the Concession Agreement that was not caused by the Design Build Contractor.

Other Termination

The Design Build Contract will automatically terminate if a Force Majeure Event has occurred and either (a) the consequences of such Force Majeure Event are continuing for a period of 180 consecutive days or more or have materially prevented or delayed the Company or the District from performing a substantial proportion of its obligations under the Concession Agreement for a period of 180 days or more in aggregate within a period of 360 consecutive days; or (b) the Company or the District has determined that a restoration plan is unfeasible in accordance with the Concession Agreement, and one of them terminates the Concession Agreement. The Design Build Contract will also automatically terminate in the event the Concession Agreement is terminated as a result of an RTD Termination Event as contemplated in the Concession Agreement, or as a result of a termination by either the District or the Company pursuant to the Concession Agreement if the District has not delivered the Full Phase 1 Notice to Proceed by December 31, 2011. In addition, the Design Build Contract will automatically terminate as a result of the termination of the Concession Agreement by the District if the District elects not to increase the specified maximum value in effect from the time the Limited Phase 1 Notice to Proceed is issued by the District until the Full Phase 1 Notice to Proceed is issued. If the Design Build Contract is terminated pursuant to any of the

events described in this paragraph, the Company will pay the Design Build Contractor the applicable termination payment, if due pursuant to the Design Build Contract.

Assignment

Neither the Company nor the Design Build Contractor may assign the Design Build Contract without the prior written consent of the other party, with the exception that the Company may assign all of its rights and interests in and under the Design Build Contract to the Trustee as collateral security for the benefit of the Owners of the Bonds and to the District to the extent required under the Concession Agreement. The Company may request the Design Build Contractor to enter into a direct agreement with the Trustee in the form agreed in the Design Build Contract.

Disputes

With the exception of disputes relating to a scope change order, any dispute between the Company and the Design Build Contractor under the Design Build Contract not exceeding $1,000,000 will be submitted by either party to binding arbitration by JAMS in Denver, Colorado, unless the parties otherwise agree to another location.

Any dispute between the Company and the Design Build Contractor under the Design Build Contract relating to a scope change order will be submitted to a fast-track adjudication process agreed in the Design Build Contract with the goal of resolving such dispute within 90 days of the Design Build Contractor's submission of the applicable scope change order.

In addition, any dispute between the Company and the Design Build Contractor under the Design Build Contract relating to (a) the amount or other terms of any claim to be presented by the Company to the District under the Concession Agreement as a result of the occurrence of a Relief Event, a directive letter or a force majeure event entitling the Design Build Contractor to claim a scope change order under the Design Build Contract, (b) the period of time by which the Company should request applicable completion or target date under the Concession Agreement upon the occurrence of a Relief Event or a force majeure event entitling the Design Build Contractor to claim a scope change order under the Design Build Contract, or (c) any other event affecting the Design Build Contractor's performance of the Work in respect of which the Company has a right under the Concession Agreement to seek relief from the District, the Company may allow the Design Build Contractor to participate in the presentation of the claim to and negotiations of the claim with the District but the Company must allow the Design Build Contractor to bring in the Company's name any claim asserted in good faith against the District related to the Work for the Design Build Contractor's own benefit under the Design Build Contract.

APPENDIX F

SUMMARY OF CERTAIN PROVISIONS OF THE OPERATION AND MAINTENANCE CONTRACT

The following is a summary of selected provisions of the O&M Contract relating to the Project and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement.

Scope of Services

The O&M Contractor will perform or cause to be performed any and all services required or appropriate in connection with the operations and maintenance of the Project, including certain pre-operations services and certain specified operations services during the Design Build Period, and will provide all materials, equipment, software, machinery, tools, labor, supervision, transportation, administration, training and other services and items required to perform such services (collectively, the "Services"). Except as otherwise expressly provided in the O&M Contract, the O&M Contractor will assume and comply with all obligations and liabilities set forth in the Concession Agreement to the extent that they relate to the Services on a back-to-back basis (other than those that the Company is prohibited by the Concession Agreement from delegating to the O&M Contractor), and such obligations and liabilities are deemed to be included as part of the O&M Contractor's obligations under the O&M Contract. The O&M Contractor is not required to perform the Services pertaining to the Gold Line Project or the Northwest Electrified Segment Project if the Phase 2 Effective Date is not achieved by the Phase 2 Conditions Precedent Satisfaction Date, and the Company will have no obligation to the O&M Contractor to make any payments relating to such Services.

The procurement and commissioning of "Rolling Stock Option Cars" as provided in Section 31.1 of the Concession Agreement is excluded from the Services and will be the Company's sole responsibility.

Term

The term of the O&M Contract ends on December 31, 2044 (the expiration of the Concession Agreement), unless the agreement is terminated earlier in accordance with its terms.

Performance Standards

The O&M Contractor will perform and cause its subcontractors to perform the Services in accordance with (a) the Concession Agreement and the Third Party Agreements (b) the requirements of all applicable laws and permits, (c) the final Project design, the operating and maintenance specifications in the Concession Agreement, environmental requirements and health, safety and security requirements, (d) and operating plan and all other plans and procedures required to be prepared and/or complied with by the Company in accordance with the operating and maintenance specifications in the Concession Agreement, (e) the "Small Business Enterprises" program requirements in the Concession Agreement, and (f) Good Industry Practice. If there is a conflict between any of the above standards, then the O&M Contractor will perform in compliance with the more restrictive standard.

In addition, the O&M Contractor will take all necessary action to ensure the uninterrupted and safe operation of the Commuter Rail Services and operation and maintenance of the Concessionaire-operated Components in accordance with the performance standards described above and will operate and maintain the Project in a manner reasonably calculated (a) to minimize Performance Deductions and Service Task Orders, (b) to maximize the Availability Ratio, and (c) to minimize, consistent with the preceding clauses (a) and (b), the costs and expenditures required to operate and maintain the Project.

General Obligations of the O&M Contractor

Mobilization and Testing

Pre-Operations Inspection and Survey of Sites. No later than 90 days prior to the Revenue Service Commencement Date for each Commuter Rail Project, at the Company's request and direction, the O&M Contractor will participate in an inspection of the Sites to be used in the operation and maintenance of such Commuter Rail Project in order to ascertain which parts of such Sites are required for the performance by the O&M Contractor of its obligations under the O&M Contract. If additional land outside the relevant Sites is required to perform the Services, the O&M Contractor will facilitate the Company's request for such additional land from the District; provided that no failure or delay by the District to provide vacant possession of or the right to use such additional land will constitute a Relief Event and the O&M Contractor will not be entitled to any compensation from the Company. If the District provides the additional land, the O&M Contractor will pay to the Company and the District any losses or costs incurred by them in requesting and providing the additional land.

Operations Start-Up. The O&M Contractor will participate and cooperate in all commissioning, testing, verification and start-up activities with respect to each Commuter Rail Project, including, at the Design Build Contractor's request, performing discrete components of the commissioning and testing or demonstration, providing start-up personnel for the commissioning and testing and reviewing and providing comments and feedback to the various plans, procedures, reports and documentation prepared by the Design Build Contractor related to the commissioning and start-up of the Project.

Final Completion Testing. The O&M Contractor will be responsible for the achievement by each Commuter Rail Project of the following final completion requirements prior to the date that is fifteen (15) months after the final Revenue Service Commencement Date (as such date may be extended in accordance with the O&M Contract):

(a) the Availability Ratio on the Commuter Rail Service is an average of at least 94% for a period of six consecutive calendar months commencing after the Revenue Service Commencement Date for the Commuter Rail Project, and ending prior to the date that is fifteen (15) months after the final Revenue Service Commencement Date (as such date may be extended in accordance with the O&M Contract); and

(b) the Availability Ratio for the Commuter Rail Service has not fallen below 80% in more than one calendar month (or, if a single, continuous event lasting no more than 30 days extends across two calendar months and directly causes the Availability Ratio in both such months to fall below 80%, two calendar months) following (and including) the calendar month in which the Revenue Service Commencement Date occurred and the last calendar month of the six calendar month period referred to in clause (a) above.

The O&M Contractor will be excused from any failure to cause the final completion requirements to be satisfied if the failure results from a failure of the Design Build Contractor to comply with its obligations under the Design Build Contract.

Maintenance and Repairs

The O&M Contractor shall at all times maintain and repair the Concessionaire-operated Components (a) in accordance with Good Industry Practice and to a standard that restores the failed or damaged item to a condition which meets the requirements of the operating and maintenance specifications and the operating plans, procedures and programs required under the Concession Agreement, (b) in a manner that causes the minimum amount of disruption to the operation of the Concessionaire-operated Components, to the Company, to the District and to the Project Third Parties, and (c) so that, at the expiration of the Operating Period, the Concessionaire-operated Components have the residual life required by the Concession Agreement.

The O&M Contractor will plan scheduled maintenance on the Project so as to minimize the disruption to the operation of the Concessionaire-operated Components. The O&M Contractor will comply with the procedures

set forth in the O&M Contract if any maintenance or repair work will necessitate an interruption or restriction of passenger services on the Concessionaire-operated Components.

Emergencies

The O&M Contractor is obligated to respond as soon as possible to accidents and other emergencies and take immediate and diligent action in accordance with applicable law and good industry practice to attempt to prevent or minimize such accidents or other emergencies, and otherwise will comply with the notification procedures set forth in the O&M Contract.

Operation of Fare System Equipment

The O&M Contractor acknowledges that under the Concession Agreement, the District is responsible for the fare system equipment and for the collection of all fares, and that the District will determine in its sole discretion the level and structure of fares, ticketing and all other aspects of generating fare revenue and have all right and title to the collected fares.

Electrical Energy

Subject to the provisions of the O&M Contract, the O&M Contractor will (a) pay for all electrical power used in the performance of the Services and all electric power used for operations and maintenance of the Commuter Rail Network and the Rolling Stock except for costs of Traction Power, which are to be paid by the District in accordance with the Concession Agreement, and (b) coordinate and interface with the operator of the power network regarding the ongoing supply of electrical power.

Physical Security

The O&M Contractor will provide the necessary security and fare inspection services and make all necessary arrangements to ensure the protection of the Concessionaire-operated Components from damage, and the protection of the safety and security of all passengers and staff on the Concessionaire-operated Components in accordance with the operating requirements under the O&M Contract.

Dispatch of Heavy Rail Movements; Interface with Heavy Rail Operators

From and after the Actual DUS Access Date, the O&M Contractor will be responsible for the dispatch of all Heavy Rail Movements, in accordance with the operating requirements of the O&M Contract. The O&M Contractor will operate and maintain the Concessionaire-operated Components without impairing, disrupting or interfering with the activities or operations of any Heavy Rail Operator.

Labor Matters

The O&M Contractor will provide all labor, professional, supervisory, administrative and managerial personnel as are required in connection with the Services. Such personnel will be trained and skilled, competent, experienced and appropriately qualified to perform their duties in accordance with good industry practice, with wages and benefits competitive with the industry. The O&M Contractor will appoint a project manager and other key personnel who may not be replaced or removed without the Company's consent except under limited circumstances. The O&M Contractor may be liable for liquidated damages for failure to hire and retain such key personnel in accordance with the O&M Contract. The project manager will have the power and authority to act on behalf of the O&M Contractor in regards to the performance of the Services, except he or she will not have the power to approve, or bind the O&M Contractor to, any amendment, supplement, waiver or other modification to the O&M Contract. The Company is entitled to require the O&M Contractor to remove and replace any of the O&M Contractor's staff or personnel (a) found in possession on the Sites or any Concessionaire-operated Components of firearms, alcohol or illegal drugs, (b) violating any criminal law involving moral turpitude or threats or harm to persons or property, (c) performing his or her duties in a grossly negligent manner, or (d) whose conduct in his or her interactions with the District or in the course of performing his or her duties has materially impaired or

prejudiced the Company's relationship with the District, passengers or the public at large. In addition, the Company may request the O&M Contractor to remove and replace any of the O&M Contractor's staff or personnel for poor performance or other grounds. The O&M Contractor will offer an ongoing training program to ensure that the O&M Contractor's personnel are capable of meeting the standards for performance of the Services. The O&M Contractor will be responsible and liable for all labor relations matters of the O&M Contractor and Subcontractor personnel relating to the Services and will use reasonable efforts to maintain harmony among the unions (if any) and other personnel employed in connection with the Services.

Permitting

The O&M Contractor shall procure and maintain in full force and effect throughout the Operating Period (including renewing, replacing, extending the validity of and arranging necessary amendments to) all permits required in connection with its performance of the O&M Contract, excluding only certain specified permits which the District will obtain to the extent provided in the Concession Agreement, and those permits required to be procured and maintained by the Design Build Contractor. Any delay or disruption to or increase in the costs of the performance of the Services or an interruption or impairment of the operation of the Concessionaire-operated Components caused by a failure of or delay by the O&M Contractor to procure and maintain permits will be the sole responsibility of the O&M Contractor.

Project Sites

Generally. The O&M Contractor will not use any project site for any purpose other than for the purposes of carrying out its obligations under the O&M Contract. The O&M Contractor will assume care, custody and control of the Concessionaire-operated Components, together with all relevant sites or portions thereof, upon the occurrence of the Revenue Service Commencement Date for each Commuter Rail Project. From any such Revenue Service Commencement Date through the end of the Operating Period, the O&M Contractor will be solely responsible for the sites or portions thereof and the ongoing maintenance thereof.

Acceptance of Sites. Under the O&M Contract, the O&M Contractor accepts the sites (including the geotechnical, climatic, hydrological, ecological, environmental and general conditions of the sites, the nature of the ground and subsoil, the form and nature of such sites, the risk of injury or damage to property near to or affecting each such site and to occupiers of such property, Utilities and other structures on or near the sites) on an "as-is, where-is" basis, and the O&M Contractor will not be excused from the performance of the Services for any reason relating to the condition of the sites and the related rights to use such sites except as otherwise provided in the O&M Contract. The Company expressly disclaims any responsibility for, and the O&M Contractor expressly waives its right to seek any increase in the Monthly Operator's Fee or other compensation for, any conditions at or on any site except as provided in the O&M Contract.

Site Conditions. The O&M Contractor is entitled to seek a Modification for a Relief Event under the O&M Contract if (a) any Unidentified Archaeological Remains, any Unidentified Geological Obstructions, any Unidentified Endangered Species or any Unidentified Environmental Conditions are discovered at a project site, each which delays, or increases the cost of, performance of the Services or causes the O&M Contractor to undertake additional Services or (b) the District carries out, or engages third party contractors to carry out, the RTD Retained Environmental Work and materially interrupts or interferes with the O&M Contractor's performance of the Services; provided that such relief will be available to the O&M Contractor only to the extent it had care, custody and control of the relevant site at the time the discovery was made and only to the extent the District also provides relief to the Company for such event under the Concession Agreement. The O&M Contractor is also entitled to seek a Modification for a Relief Event in respect of the discovery of an Unidentified Utility, which may allow the O&M Contractor to be compensated for incurred costs resulting from delays or disruptions to the Services or necessitated by the acquisition of replacement property.

If prior to or following the commencement of the Services, the Company or the O&M Contractor discovers or causes the presence of an Environmental Condition on any Site or adjacent areas, the O&M Contractor is required to carry out all work relating to the removal, remediation and clean-up at its cost in accordance with the procedures set forth in the O&M Contract that are identical to the respective procedures set forth in the Concession Agreement,

provided that if the District approves the clean-up report, the O&M Contractor can seek reimbursement from the Company of the costs incurred relating to such clean-up.

Rolling Stock Replacement

Subject to the provisions of the O&M Agreement, the O&M Contractor will maintain, repair and replace consumable and life-expired items for, and appropriately rehabilitate or overhaul, the Rolling Stock throughout the Operating Period. The O&M Contractor will cooperate with the Company to facilitate the Company's compliance with its obligations under Section 31.2 of the Concession Agreement with respect to the procurement of replacement Rolling Stock for use by the District after the Concession Expiry Date. Any request by the District for assistance from the Company with respect to the procurement of replacement Rolling Stock will be treated as an RTD Proposed Change, and the O&M Contractor will be entitled to relief with respect to facilitating the Company's compliance with its obligations relating to the replacement Rolling Stock only and to the extent provided by the District to the Company.

Restoration

Generally, but subject to limited exceptions, if any part of the Concessionaire-operated Components suffers a Casualty Event, the O&M Contractor is required to repair, rehabilitate and otherwise restore such portion of the affected Concessionaire-operated Components at its cost. In the event that a "Relevant Incident" (as defined in the Concession Agreement) requiring the implementation of a "Restoration Plan" pursuant to Section 40 of the Concession Agreement occurs during the Operating Period, and the District has elected to implement a Restoration Plan, the O&M Contractor will be required to perform the obligations set forth in such section so as to ensure the Company's compliance thereunder, including, without limitation, the preparation of a restoration plan, the carrying out of the restoration of the affected portions of the Project and the procurement of a bond, letter of credit or other surety, each as required under such section, and the O&M Contractor is entitled to funds provided under such Section 40 of the Concession Agreement for the payment or reimbursement of the restoration work. Subject to the provisions of the O&M Contract, the Company may terminate the O&M Contract in the event the Concession Agreement is terminated as a result of the occurrence of a Casualty Event and the Company will pay the O&M Contractor any Operator Termination Payments resulting therefrom, but only to the extent that corresponding amounts have been received by the Company from the District under the Concession Agreement.

Coordination and Cooperation with other Parties

The O&M Contractor will keep the Company fully informed regarding coordination and interfacing with Key Third Parties, and accept direction from the Company regarding the same if the Company determines to provide such direction, will deliver the Company copies of all written correspondence with any Key Third Party, and keep the Company informed of all meetings, inspections, tests and other interactions with any Key Third Party and ensure that the Company has the opportunity to attend all such meetings, inspections, tests and other interactions. The O&M Contractor will have the right to attend meetings between the Company and the District that the Company reasonably expects could affect the O&M Contractor's performance of the Services in any material respect. The O&M Contractor will also cooperate with the Company's other contractors to coordinate the Services with the services or work of the Company's other contractors. At the Company's request, the O&M Contractor will attend and participate in any negotiations or meetings that the Company has with a third party, including the District, on a matter which is or shall become the O&M Contractor's responsibility hereunder. The O&M Contractor will not interfere with the work or services of, or cause any delay to, the DUS Infrastructure contractor, the Design Build Contractor, the design-build subcontractor or any utility owner, or any other contractors which may be carrying out work or services in the land adjoining or near any project site for the District, any Project Third Party or any Relevant Authority. The O&M Contractor will cooperate with the Independent Engineer and Technical Advisor as reasonably requested by the Company.

Registers, Plans and Reports

The O&M Contractor shall prepare and maintain certain registers, plans and reports during the Operating Period, all as specified in the O&M Contract, including an asset register, a site register, an operating plan, a quality management plan, a management and administration plan, a rolling stock fleet management plan, a rolling stock,

facility and infrastructure maintenance plan, a safety and security management plan, a system safety program plan, a system security plan (each as defined in the operating specifications in the Concession Agreement) and all other plans, procedures or programs in connection with the performance of the Services required by the District under the Concession Agreement. Each plan will be submitted to the Company for its approval prior to submission of same to the District. In addition, the O&M Contractor will maintain and submit to the Company daily, monthly, quarterly and annual operating reports, as well as passenger data.

O&M Contractor-Caused Hazardous Materials

The O&M Contractor will be responsible for both the cost and implementation of all clean-up, remediation, removal, disposal and mitigation of Hazardous Materials in, on or under the project sites which is caused by or attributable to any acts or omissions of the O&M Contractor or any of its subcontractors in accordance with the requirements of the O&M Contract and the Concession Agreement, and the O&M Contractor will not be entitled to seek a Modification for a Relief Event in respect thereof. During the period of any clean-up or mitigation activities, the O&M Contractor will continue the Services to the maximum extent possible on unaffected parts of the Project and areas of the project sites.

Intervention by the District

If (a) the District considers that a breach by the O&M Contractor of its obligations under the O&M Contract creates an immediate and serious threat to public health, safety, security or the environment, (b) in the event of an emergency that creates an immediate need and serious threat to public health, safety, security or the environment and the O&M Contractor has not taken steps to remedy or mitigate the effects of the emergency or (c) where the District has reasonable grounds for concluding that damage to, or a threat to the safety or security on the District's commuter rail (excluding the Commuter Rail Network), light rail or bus operations is likely to result from the continuation of the O&M Contractor's operation and maintenance of the Concessionaire-operated Components, then in each case, the District may immediately intervene in the operation and maintenance of the Concessionaire-operated Components and take such reasonable action as it considers necessary, including issuing directions to the O&M Contractor, in order to prevent, mitigate or eliminate an immediate and serious risk to health, safety, security or the environment or otherwise to ensure the safety of passengers. The District may, for this purpose, enter into any part of the Concessionaire-operated Components or the Sites, for such period as is necessary and take over all or any part of the operation and maintenance of the Concessionaire-operated Components, and the O&M Contractor will cooperate with and provide reasonable assistance to the District.

If the events giving rise to the District's intervention actions are attributable to a breach by the O&M Contractor of its obligations under the O&M Contract, the O&M Contractor will be responsible for all costs incurred by the Company and for which the Company is responsible to reimburse the District under the Concession Agreement arising out of the District's action, and the O&M Contractor will not have any right to claim a Relief Event for such event. However, if the events giving rise to the District's intervention action is determined to be attributable to a breach by the Company of its obligations under the O&M Contract or by the District of its obligations under the Concession Agreement, the O&M Contractor may claim a Modification under the O&M Contract.

Review and Monitoring; Remedial Action Plan

Review and Monitoring

If, during the Operating Period (a) the Availability Ratio of any Commuter Rail Service is less than an average of 95% for four or more months of any rolling six-month period or (b) the Performance Deduction Percentage exceeds an average of 2.0% of the Adjustable Base Service Payment for four or more months of any rolling six-month period, or (c) a Persistent Condition exists, then in each such case, the O&M Contractor, at the Company's request, will be required to meet with the Company to review the O&M Contractor's operational procedures for the Project and to consider in good faith any recommendations made by the Company for changes to the operations and maintenance of the Project that the Company believes would be expected to enhance reliability or improve operation of the Project. In addition, subject to any increased monitoring rights that may be exercised by the Trustee on behalf of the Owners of the Bonds or the District, the Company may require the O&M Contractor to

provide increased monitoring of the Services as reasonably requested by the Company, or may itself increase its monitoring of the Services.

Remedial Plan

If, during the Operating Period (a) the Availability Ratio of any Commuter Rail Service is less than an average of 90% for four or more months of any rolling six-month period, or (b) the Performance Deduction Percentage exceeds an average of 2.3% of the Adjustable Base Service Payment for four or more months of any rolling six-month period, then in each case the Company may require the O&M Contractor to submit a reasonable remedial plan to the Company that details the actions that will remedy the cause of the failure in performance, the schedule for corrective actions and any mitigating actions that will be taken to minimize the impact on Passengers, which remedial plan must be approved by the Company and the Technical Advisor. The O&M Contractor will diligently implement the remedial plan to rectify the deficiency at its sole cost and expense. The O&M Contractor is also required to comply with all of the Company's obligations with respect to STOs set forth in the operating and maintenance specifications in the Concession Agreement, including the preparation and implementation of any remedial action plan required thereunder.

Access and Facilities

The Company and its designees have the right to access and inspect the Concessionaire-operated Components and the Sites at any time and for any reason upon reasonable notice and subject to completion of required safety training and reimbursement of reasonable, out-of-pocket costs incurred by the O&M Contractor resulting from such access or inspection to the extent the Company requires such access more than once per calendar quarter. Unless the Company otherwise directs, the O&M Contractor is also required to grant to the District, the Independent Engineer, the Technical Advisor, the Project Third Parties and any other Relevant Authority reasonable access to the Concessionaire-operated Components and the Sites for the purposes of carrying out their obligations under the Project Agreements and monitoring the O&M Contractor's performance. In addition, the O&M Contractor will grant to the District such access to the Commuter Rail Network as the District requires in order to operate the District's bus and light rail services and to procure, construct, update and maintain any Other District Project; provided that the District is to use reasonable efforts to mitigate any material impairment, interference, disruption or other adverse impact from the District's bus and light rail services on the operation and maintenance of the Commuter Rail Network. The O&M Contractor will make available to the District and the Company and maintain certain office spaces and related facilities during the Operating Period.

Inspections and Audits

The O&M Contractor will perform all inspection, expediting, quality surveillance and maintenance of traffic services that are required for performance of the Services on a timely basis, including inspecting all materials and equipment, including the Rolling Stock, both on and off the Sites that comprise or will comprise the Project or that are to be used in performance of the Services. The O&M Contractor will keep the Company informed on an ongoing basis of the performance and quality of all Services and will provide the Company with written reports of deficiencies revealed through such inspections and of measures proposed by the O&M Contractor to remedy such deficiencies. The Company is entitled to be present at and participate in all inspections of the Project, the Services or the Sites undertaken by the O&M Contractor. If the results of any inspection reveal any defect, breach and/or non-compliance, the Company will have the right to make recommendations to remedy such defect, breach and/or non-compliance. The O&M Contractor will remedy such defect, breach and/or non-compliance to the applicable standards, and if the O&M Contractor fails to so remedy, the Company and the District will have the right to carry out the necessary work at the O&M Contractor's cost and expense.

Company's Right to Carry Out Services

Without prejudice to the right of the Company to suspend the Services or access the project sites or intervene in the operation and maintenance of the Concessionaire-operated Components as provided in the O&M Contract, if the O&M Contractor defaults or neglects to carry out the Services in accordance with the requirements of the O&M Contract or if there are defects or deficiencies in the Services that the O&M Contractor refuses or

neglects to repair, then following a cure period, the Company may remedy the same, and the O&M Contractor will reimburse the Company the reasonable costs of implementing such remedy.

No Amendments Without the O&M Contractor's Consent

The Company will not agree to any modifications of its obligations under the Concession Agreement, any Third Party Agreement or the Design Build Contract that could adversely affect the O&M Contractor's rights and obligations under the O&M Contract or the performance of the Services without the O&M Contractor's prior consent, not to be unreasonably withheld or delayed.

Subcontractors

Subject to the requirements of the O&M Contract, the O&M Contractor may enter into subcontracts for discrete portions of the Services, but may not subcontract the entire Services. The Company will have a right to object to any subcontractors proposed by the O&M Contractor to perform a subcontract requiring the payment of more than $3,000,000 in any year. The O&M Contractor will use reasonable efforts to cause all subcontracts to be assignable to the Trustee for the benefit of the Owners of the Bonds. The O&M Contractor is not relieved of any of its obligations or liabilities under the O&M Contract by reason of any subcontract, and the O&M Contractor will remain responsible to the Company for the performance or non-performance of any such contractor.

Compensation

Compensation for Pre-Operations Services

The O&M Contractor will be paid for the full and timely performance of certain pre-operations services a monthly fee calculated in accordance with Exhibit I attached to the O&M Contract; provided that if the Phase 2 Work Commencement Date occurs under the Design Build Contract, then the amount of the pre-operations fees will be adjusted by an amount equal to 1.5% of any adjustments to the Maximum Annual Phase 1 and Phase 2 Construction Payment Amounts (as defined in the Concession Agreement) made for indexed inflation pursuant to the formulas set forth in Attachment 8(d) to the Concession Agreement) from March 2010 until the Phase 2 Work Commencement Date. With respect to any portion of the pre-operations fees which will be paid through the RTD Construction Payments, the O&M Contractor is entitled to the payment of such fees only to the extent and at such times that the Company has first received such RTD Construction Payments from the District under the Concession Agreement.

Compensation for Operations Services

As consideration to the O&M Contractor for the full and complete performance of the Services other than the pre-operations services, the O&M Contractor will be paid a Monthly Operator's Fee in an amount calculated in accordance with the methodologies set forth in Exhibit I to the O&M Contract. Generally, the calculation of the Monthly Operator's Fee will track the calculation of and adjustments to Service Payments under the Concession Agreement. The O&M Contractor will be responsible for submitting an invoice every month in the form and with the supporting materials required by the District or the Company. Any dispute relating to the payment of any amount of the Monthly Operator's Fee claimed by the O&M Contractor in its invoice will be resolved in accordance with the dispute resolution procedures provided in the O&M Contract.

The O&M Contractor will be paid the Monthly Operator's Fee only to the extent that the Company has first received from the District under the Concession Agreement the corresponding Service Payment (or the portion thereof corresponding to such Monthly Operator's Fee) applicable to the corresponding Services performed by the O&M Contractor. In addition, the Service Payments paid by the District to the Company under the Concession Agreement will be the sole source of funds that will be used to pay the O&M Contractor the Monthly Operator's Fees, and the aggregate Monthly Operator's Fees and Renewal Work Payments (as defined below) payable in any given calendar year during the operating period will not exceed certain maximum amounts fixed for that year as set forth in Exhibit I to the O&M Contract. Any failure of the Company to pay the Monthly Operator's Fee due to the O&M Contractor will not constitute a breach or default by the Company to the extent resulting from the failure by

the District to make the corresponding Service Payments (or portion thereof corresponding to such Monthly Operator's Fee) where such failure does not result from a delay, breach or failure of the Company; provided, however, that in such event, the O&M Contractor will have the right to require the Company to commence procedures to terminate the Concession Agreement and, absent a cure by the District of the failure to pay, terminate the Concession Agreement in accordance with its terms. The Company may elect to make direct payment to the O&M Contractor the amounts which the District has failed to pay, in which case the O&M Contractor's rights as described in the preceding proviso will not apply and the O&M Contractor will continue performance of its obligations under the O&M Contract.

Compensation for Renewal Work

Renewal Work Payments. The O&M Contractor will deliver to the Company a Renewal Work Budget and Schedule (expressed in 2010 dollars) with respect to each element of Renewal Work to be completed during the Operating Period. During the Operating Period on a monthly basis, the O&M Contractor will submit an invoice for the fixed amount of Renewal Work costs set forth in the Renewal Work Budget and Schedule for that month, and the Company will pay the sum so invoiced as a "Renewal Work Payment" (as such sum may be adjusted for inflation and to reflect certain Modifications to the Renewal Work Budget and Schedule resulting from changes to the Service Payments under the Concession Agreement) into a "Renewal Work Account" established by the O&M Contractor within 45 days of the date of invoice. Subject to the O&M Contractor's right to withdraw funds from the Renewal Work Account described below, the O&M Contractor is required to use funds in the Renewal Work Account for Renewal Work only.

The Renewal Work Payments are not subject to adjustment in amount or timing of payment from the corresponding amount and payment schedule set out in the Renewal Work Budget and Schedule unless there is a corresponding adjustment to the relevant Service Payment payable by the District under the Concession Agreement and such adjustment relates to the performance of the Services by the O&M Contractor and is reflected in a Modification. The O&M Contractor is responsible for funding all Renewal Work costs to the extent the Renewal Work Payments are not sufficient to pay Renewal Work costs incurred or Renewal Work is performed at times other than as scheduled in the Renewal Work Budget and Schedule.

The O&M Contractor will be paid the Renewal Work Payments only to the extent that the Company has first received from the District under the Concession Agreement the corresponding Service Payment (or the portion thereof corresponding to such Renewal Work Payment) applicable to the corresponding Services performed by the O&M Contractor. In addition, the Service Payments paid by the District to the Company under the Concession Agreement will be the sole source of funds that will be used to pay the O&M Contractor the Renewal Work Payments. Any failure of the Company to pay the Renewal Work Payments due to the O&M Contractor will not constitute a breach or default by the Company to the extent resulting from the failure by the District to make the corresponding Service Payments (or portion thereof corresponding to such Renewal Work Payment) where such failure does not result from a delay, breach or failure of the Company.

Forecast Renewal Work Schedule. The O&M Contractor is required to provide to the Company on an annual basis a "Forecast Renewal Work Schedule" for the next succeeding 5 years. The Forecast Renewal Work Schedule and each update thereto is subject to the Technical Advisor's review, and the O&M Contractor is required to revise the Forecast Renewal Work Schedule to the extent it agrees with the Technical Advisor or it is determined pursuant to the dispute resolution procedures that the timing or budget for Renewal Work proposed in the forecast is likely to cause the O&M Contractor to fail to comply with the terms of the O&M Contract or to overrun the budget.

Renewal Works Security for Variance in Forecast Renewal Work Schedule. If at any time during the Operating Period commencing with the year in which the first scheduled element of Renewal Work is to be performed, and continuing through the year in which all the Bonds have been repaid in full, the events described in the following clauses (a), (b) and (c) have occurred:

(a) the amount equal to (i) the costs set forth in the Forecast Renewal Work Schedule for such year less (ii) the costs set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars) less (iii) the amount on deposit in the Renewal Work Account as at January 1 of such year, if a positive number, exceeds the

greater of (A) $1,000,000 or (B) ten percent (10%) of the cost of Renewal Works set forth in the Renewal Work Budget and Schedule for such year (in then-current dollars);

(b) the amount then remaining undrawn in the O&M Letter of Credit less the dollar amount (if a positive number) calculated under clause (a) above is less than an amount equal to 75% of the Required Security Amount then required; and

(c) the Availability Ratio of any Commuter Rail Service was less than 91% in four or more calendar months in any rolling six-month period in the previous year, or the Performance Deduction Percentage exceeded 2.3% of the Adjustable Base Service Payment for the relevant month in four or more months in any rolling six-month period in the previous year;

then, the O&M Contractor will be required to procure an on-demand letter of credit issued by a Qualifying Institution and in a form acceptable to the Company, in a stated amount equal to 100% of the amount calculated in accordance with clause (a) above with respect to such year and with a stated expiration of not earlier than one year from the issuance date (the "Renewal Works Letter of Credit"). The Renewal Works Letter of Credit will secure the O&M Contractor's full and timely payment and performance with respect to Renewal Works. The Company will be entitled to draw on a Renewal Works Letter of Credit, which amounts will be dedicated to the payment of Renewal Works (except to the extent otherwise required by any Designated Credit Agreement, only to the extent the O&M Contractor has failed to implement the relevant Renewal Works in the applicable year in accordance with the most recent Forecast Renewal Work Schedule. If the performance of any Renewal Works has been deferred from the most recent Forecast Renewal Work Schedule by not more than one (1) year with the prior written approval of the Company and the Technical Advisor, then to the extent such Renewal Works is not timely completed taking into account such deferral period, Concessionaire shall be entitled to draw on the Renewal Works Letter of Credit to pay for the performance of such Renewal Works only upon the expiration of such deferral period (which in no event shall exceed one (1) year).

Withdrawal from Renewal Work Account. So long as no O&M Contractor event of default (or a default which with the passage of time, or the giving of notice, or both, will become an O&M Contractor event of default) has occurred and is continuing and the O&M Contractor is not subject to increased review and monitoring by the Company under the O&M Contract, the O&M Contractor is entitled to withdraw funds from the Renewal Work Account annually without having to expend such withdrawn funds on Renewal Work, but solely to the extent that the O&M Contractor has demonstrated to the Company and the Technical Advisor that amounts to be paid to the O&M Contractor over the next five years for Renewal Work pursuant to the Renewal Work Budget and Schedule, plus funds remaining in the Renewal Work Account following any withdrawal as described in this paragraph, is sufficient to meet expenditures anticipated by the then-current Forecast Renewal Work Schedule, and the Technical Advisor has not reasonably objected to such calculations.

Account Control. The Company will hold a first-priority security interest in amounts held in the Renewal Work Account. The Company will be entitled to instruct the transfer of control of the Renewal Work Account following the occurrence and continuance of an O&M Contractor event of default (or a default which with the passage of time, or the giving of notice, or both, will become an O&M Contractor event of default) unless such event of default or default is cured.

Relation to the District Payments

No undisputed payment required to be paid by the Company to the O&M Contractor under the O&M Contract will be contingent upon or withheld, delayed or reduced on account of the Company's failure to receive any payment from the District under the Concession Agreement to the extent (a) the Concession Agreement or applicable law does not provide or allow for the Company to seek a corresponding payment due from the District, (b) any withholding, delay or reduction of the District's payment to the Company is due to a breach, delay or failure of the Company, or (c) the payment owing to the O&M Contractor is for a Modification requested by the Company, but not requested or required of the Company by the District.

Guaranty

As of the date of execution of the O&M Contract, Fluor Corporation, a Delaware corporation, Balfour Beatty, LLC, a Delaware limited liability company, and Balfour Beatty, plc, a public limited company organized under the laws of England, will each execute and deliver a parent guaranty as security for the O&M Contractor's obligations under the O&M Contract.

Performance Security

As security for the full and timely performance of its obligations under the O&M Contract, the O&M Contractor shall provide to the Company, not later than the first Revenue Service Commencement Date to occur (or, if earlier, after such time as neither Fluor Corporation nor Balfour Beatty, plc has a long-term credit rating of at least "BBB" or "Baa2" from at least one of Moody's Investors Services, Inc., Standard & Poor's Rating Services or Fitch Ratings, Inc.), an on-demand letter of credit in the amount of $22,659,628, adjusted annually for inflation (the "Required Security Amount"), issued by a Qualifying Institution (the "O&M Letter of Credit"). Upon (a) the last Final Completion Date for a Commuter Rail Service to occur and (b) the end of the last Warranty Period to expire, the O&M Letter of Credit will be replenished, to the extent previously drawn, to an amount equal to the then-applicable Required Security Amount. The Company will be named as beneficiary of the O&M Letter of Credit, but the Company may assign its rights thereunder to the Trustee as collateral security for the benefit of the Owners of the Bonds. The O&M Letter of Credit will be maintained until the end of the 25th calendar year following the year in which the Operating Period has commenced. Thereafter, subject to the repayment in full of all the Bonds, the O&M Contractor will either (a) replace the O&M Letter of Credit with a performance bond issued by a Qualifying Insurer in a penal amount no less than 50% of the Required Security Amount, or (b) renew or replace the outstanding O&M Letter of Credit with one or more replacement letters of credit in a face amount equal to 50% of the Required Security Amount. Such replacement security will be maintained until the later of (a) six months after the end of the Operating Period, and (b) such date on which the O&M Contractor has completed all of its obligations under the O&M Contract to the Company's satisfaction. If warranty claims remain unresolved as of the date the O&M Letter of Credit or the replacement security is otherwise permitted to expire, the O&M Letter of Credit or the replacement security will continue to remain in effect at a reduced amount equal to 150% of the cost reasonably estimated by the Company to correct such warranty claims.

Limitation on Liability

The maximum aggregate liability of the O&M Contractor in contract, tort, equity or otherwise (including negligence, warranty, strict liability or otherwise) in connection with the O&M Contract is limited to an amount equal to $67,978,884, adjusted annually for inflation. The limitation on liability does not apply to the following, among other exceptions: (a) the proceeds of insurance, (b) bankruptcy of the O&M Contractor or abandonment of the Services by the O&M Contractor, (c) the O&M Contractor's indemnity obligations, (d) any deductions to any payment of the Monthly Operator's Fee arising from or attributable to any impact to the Availability Ratio or the accrual of Performance Deductions, (e) any interest due and payable from the O&M Contractor to the Company arising from the O&M Contractor's failure to pay amounts otherwise due, (f) the O&M Contractor's liability for costs and expenses resulting from defects to the Design Build Contractor's work for the period from the expiration of the applicable warranty period through the end of the statute of repose period mandated by applicable law and (g) sums paid by the O&M Contractor to the Design Build Contractor under the Interface Agreement. The Company may immediately terminate the O&M Contract if both (i) the aggregate amounts paid by the O&M Contractor in respect of damages or claims under the O&M Contract exceed the dollar cap on liability, and (ii) the O&M Contractor does not agree to waive the benefits of the cap on liability or increase the amount of the cap on liability in an amount reasonably acceptable to the Company. The O&M Contractor is not entitled to Operator Termination Payments or payment of any other amounts as a result of a termination resulting from the events described in clauses (i) and (ii) above. The O&M Contractor and the Company also agree to waive consequential damages, except as specified in the O&M Contract.

Warranty

The Services will be performed by qualified personnel, any repair or replacement of parts or components as part of the Services will be performed in a workmanlike manner using good quality components and materials, respecting the common commuter rail operator industry practices, and the Services will satisfy the performance standards described above. Any failure to perform in such manner will constitute a defect or deficiency of the Services, obligating the O&M Contractor to promptly repair or correct the defects or deficiencies at the O&M Contractor's expense (except with respect to ordinary wear and tear). If the O&M Contractor fails to so repair or correct the defect or deficiency, the Company (or the District pursuant to the Concession Agreement) will have the right to correct the defect or deficiency and perform the Services at the O&M Contractor's expense. In addition, commencing from the expiration of the applicable warranty period and through the end of the statute of repose period mandated by applicable law, the O&M Contractor will be responsible for all costs and expenses resulting from defects, including latent defects, to the Design Build Contractor's work.

The O&M Contractor warrants and guarantees that title to the Project and all Services will pass to the District free and clear of all liens, claims, security interests and other encumbrances (other than inchoate liens provided by applicable Laws to secure payments not yet delinquent).

To the extent assignable, the O&M Contractor assigns to the Company all vendors' and manufacturers' warranties provided to the O&M Contractor in the performance of its Services. If any such warranty is not assignable, the O&M Contractor will enforce the warranties on behalf of the Company.

The O&M Contractor's Representations and Warranties

The O&M Contractor makes representations and warranties for the benefit of the Company which are required to be made by the Company in the Concession Agreement for the benefit of the District (to the extent they relate to the O&M Contractor and the O&M Contract) (including, without limitation, due organization, power and authority, enforceability, no conflicts, consents and approvals, litigation, financial statements, no change in financial condition, accuracy of the O&M Contractor documents, etc.).

Insurance

Subject to the terms and conditions set forth in the O&M Contract, the O&M Contractor is required to procure its own insurance with respect to the Services as required in the Concession Agreement. Deductibles and premiums under all insurance policies and all self-insured retentions covering the Project during the Operating Period will be the responsibility of the O&M Contractor unless expressly specified otherwise under the Concession Agreement.

Indemnity

The O&M Contractor's Indemnity in Favor of the District Indemnitees

Subject to any limitations specified in the O&M Contract, the O&M Contractor will indemnify and hold harmless the District and the District's directors, officers, agents, servants, consultants, contractors and employees and, to the extent required by the Project Agreements, the Project Third Parties and their respective agents, servants, consultants and employees, from and against all damages to the extent arising out of or in connection with (a) any act or omission of the O&M Contractor or its subcontractors, agents, servants, consultants or employees in connection with the Concession Agreement, the O&M Contract and the other Project Agreements or breach thereof or (b) any willful misconduct of the O&M Contractor or its subcontractors, agents, servants, consultants or employees, including for personal injury, loss or damage to real or personal property and any fines or penalties assessed against the District.

The O&M Contractor's Indemnity in Favor of Concessionaire Indemnified Parties

Subject to any limitations specified in the O&M Contract, the O&M Contractor will indemnify, save harmless and defend the Company, the Financing Parties, the Technical Advisor, each of their subsidiaries and affiliates, and the directors, officers, agents, employees, successors and assigns of each of them, from and against any and all damages directly or indirectly arising out of, resulting from or related to (a) claims associated with the operation and maintenance of the Eagle Project, (b) claims for any damage to or destruction of property other than the Project, and (c) claims for death of or bodily injury to, any person, in each case to the extent caused or contributed to by the fault, intentional act, negligence or strict liability of the O&M Contractor, its subcontractors or any of the O&M Contractor's subsidiaries, affiliates and the directors, officers, agents, employees, successors and assigns of each of them, in the performance of the Services.

The O&M Contractor will also indemnify the Company from all damages in favor of any person with respect to payments of taxes relating to the O&M Contractor's income or other taxes required to be paid by the O&M Contractor without reimbursement, or nonpayment of amounts due as a result of furnishing materials or services to the O&M Contractor or any subcontractor in connection with the Services to the extent that the Company has paid the O&M Contractor all undisputed amounts then due and payable, and any liens resulting from such nonpayment.

Company's Indemnity

The Company will indemnify, save harmless and defend the O&M Contractor, each of its subsidiaries and affiliates, and the directors, officers, agents, employees, successors and assigns of each of them, from and against any and all damages directly or indirectly arising out of, resulting from or related to third-party claims associated with the performance by the Company of its obligations under the O&M Contract to the extent caused by or contributed to by the Company's fault, intentional act, negligence or strict liability in the performance of its obligations or by any breach by the Company of its obligations under the O&M Contract.

Intellectual Property Indemnification

The O&M Contractor will also indemnify the Company and the District against all damages, whether direct or indirect, that they incur arising out of a breach of the O&M Contractor's warranties related to intellectual property or any claims of infringement of intellectual property rights, or if the Company's or the District's rights and interests provided under the O&M Contract related to intellectual property are at any time determined by a court of law or other competent authority to be invalid, ineffective or impaired in any material respect.

Modifications

Generally

The Company is not entitled to remove components from the Scope of Services and award such components or any related work to another contractor except in the exercise of its other rights and remedies under the O&M Contract or if required to do so by the District pursuant to the Concession Agreement. The Company or the O&M Contractor is entitled to seek a modification to the Scope of Services and/or an adjustment to the Monthly Operator's Fee and/or payment or reimbursement of costs and expenses (each, a "Modification") to account for the impact of any Concessionaire Proposed Change, any RTD Proposed Change, any Change in Law Change and any other Relief Event, any proposed deviation from the Project requirements or any delay, breach or failure caused by the Company that delays or disrupts the O&M Contractor's performance of the Services or increases the cost to the O&M Contractor of performing the Services. All Modifications are subject to the consent of the District, except as provided in the Concession Agreement and the O&M Contract.

Company-Initiated Modifications

If the Company wishes to initiate a Modification, it must give the O&M Contractor a proposal request detailing the change and the O&M Contractor is then required to prepare a Modification proposal with supporting

documentation for the Company's approval and in certain cases, the District's approval, upon which the Company will issue and execute the Modification. If the Company does not approve the O&M Contractor's Modification proposal, the Company may either issue a work order to the O&M Contractor directing the O&M Contractor to proceed with the specified Modification or withdraw its proposal request and pay the O&M Contractor reasonable costs incurred in the preparation of the Modification proposal.

O&M Contractor-Initiated Modifications

The O&M Contractor will not make any changes to, or deviate in any way from, the terms of the O&M Contract and the Project requirements in the carrying out of the Services except as permitted under the procedures for the O&M Contractor-initiated Modifications. Any change proposed by the O&M Contractor is subject to the Company's approval. The Company will be under no obligation to approve a Modification proposal resulting from the occurrence of a Relief Event except to the extent of any relief provided to Concessionaire by the District under the Concession Agreement corresponding to such Modification proposal, but the Company will, subject to resolution of any objections to the Modification proposal, provide the O&M Contractor with the benefit of any such relief granted by the District in respect of such Modification proposal. The O&M Contractor may also request the Company to approve a Modification for any material proposed or actual change, deviation, modification, alteration or exception from the Project requirements by submitting for Concessionaire's review a Modification proposal, and the Company will be required to send such Modification proposal to the District for its consideration. To the extent that any Modification initiated by the O&M Contractor results in a reduction in cost of the Project to the District, the O&M Contractor will be entitled to payment of an amount equal to 92.5% of the cost savings received by the Company from the District.

The District-Initiated Modifications

The District has the right to require a Modification (a) to change or alter the operating specifications or, with respect to the Rolling Stock, the Handover and Reinstatement Work Procedures, or (b) to require the Company to operate and maintain any Other RTD Project, to the extent such project constitutes a rail line connected to, or fixtures, facilities or infrastructure incorporated into, the Commuter Rail Network, as an additional element of the Eagle P3 Project (a "Concessionaire-operated Expansion"), in each case by initiating an RTD Proposed Change under the Concession Agreement. In such event, the District will submit the request for such change to the Company in accordance with the Concession Agreement, which the Company will forward to the O&M Contractor. The O&M Contractor is required to prepare a preliminary written response within 20 days estimating cost and impact of the proposed change and no later than 15 days following receipt of such response by the District, the District is to provide the Company with the change summary notice and the Company and the O&M Contractor will negotiate a mutually acceptable Modification based on such notice. The O&M Contractor is responsible for preparing a change report within 25 days (or within such other time period specified in the O&M Contract) following the receipt of the change summary notice. Under the Concession Agreement, the District has the right to instruct the Company in the change summary notice to begin to implement the proposed Modification pending preparation and approval of the related change report, in which case the O&M Contractor is required to implement such proposed Modification. In the event the District does not agree with any matter set out in the change report, the District may elect to implement the RTD Proposed Change itself or engage one or more third party operators to implement such RTD Proposed Change at its own cost. In such case, the O&M Contractor will be compensated for reasonable costs incurred to third parties and other direct design and engineering incurred costs, in each case incurred in preparing the change report, but only to the extent and at such times as Concessionaire has received same from the District pursuant to the Concession Agreement. To the extent that the O&M Contractor is hindered from performing its obligations or incurs any incurred costs or delay as a result of the actions of any third party operator employed by the District to carry out an RTD Proposed Change, the O&M Contractor will be entitled to seek a Modification for a Relief Event.

In the event total combined annual passenger ridership for all Commuter Rail Services exceeds or is below projected ridership by 15% for a period of one (1) year during the Operating Period, the O&M Contractor will provide the Company with a change summary outlining the O&M Contractor's proposal and justification for an adjustment to its Monthly Operator's Fees, and the Company will forward the change summary to the District for its review in accordance with the Concession Agreement.

Directive Letters

In the event of any dispute between the District and the Company regarding the scope of the Company's obligations under the Concession Agreement, the District may issue a directive letter to the Company directing the Company to perform the work in question, notwithstanding such dispute. Upon the Company's receipt of any such directive letter, the Company will issue a work order to the O&M Contractor and the O&M Contractor will be required to proceed immediately to implement and perform the work in question pending resolution of the dispute between the Company and the District. If it is determined that the Company was not required to perform the work identified in a directive letter, such directive letter will be deemed to be a Modification implementing the RTD Proposed Change and the O&M Contractor will be entitled to reimbursement of incurred costs in connection with such directive letter.

Suspension of Services

Suspension for District Failure to Appropriate

The O&M Contractor will be notified if the District reasonably anticipates that the Board will not include any RTD Appropriation Obligations that are payable or expected to be payable during the following Fiscal Year in the District's annual budget for such Fiscal Year. Upon receipt of notice, the O&M Contractor will be obligated to suspend or partially suspend, as applicable, operation of the Concessionaire-operated Components to the extent and in the manner directed by the District. In addition, the O&M Contractor will be required to suspend or partially suspend, in the manner directed by the District, the operation of the Concessionaire-operated Components if the District Board fails to include any RTD Appropriation Obligations that are payable to the Company under the Concession Agreement for the following Fiscal Year in its annual budget for such Fiscal Year, such suspension to commence on January 1 of such Fiscal Year. Any such suspension or partial suspension will be treated as an RTD Proposed Change. The O&M Contractor will resume performance of the Services upon appropriation by the Board of adequate funds to meet such RTD Appropriation Obligations, taking into account any additional RTD Appropriation Obligations for the relevant Fiscal Year that have accrued or arisen since the Board's original failure to include the RTD Appropriation Obligations in its annual budget. During any period of suspension or partial suspension as described above in which the Company is paid the TABOR Portion of Service Payments, any TABOR Portions received by the Company will first be allocated to pay debt service then outstanding under the Bonds, with no portion of the TABOR Portion to be applied to the payment of any amounts owing to the O&M Contractor until the debt service then outstanding on the Bonds has been paid in full. During the continuation of a suspension as described above, the Monthly Operator's Fee will be reduced by an amount equal to the avoidable costs which are not being incurred by the O&M Contractor as a result of such suspension to the extent the District reduces the amount of the corresponding Service Payment pursuant to the Concession Agreement on account of such suspension.

The District's Right to Suspend the Services

The District is entitled under the Concession Agreement to order the suspension of any part of the Services in the event a "Concessionaire Termination Event" under the Concession Agreement occurs and is continuing, all in accordance with and subject to the District's compliance with the relevant provisions of the Concession Agreement and the terms of the District's direct agreement with the Trustee on behalf of the Owners of the Bonds.

Termination Rights

Termination for O&M Contractor Event of Default

O&M Contractor Events of Default. The Company is entitled to terminate the O&M Contract for any of the following reasons (each, to the extent continuing beyond the expiration of the applicable cure period, called an O&M Contractor event of default):

(a) The commencement of an involuntary or voluntary bankruptcy proceeding with respect to any of the O&M Contractor or any Guarantor, and, with respect to an involuntary proceeding, such proceeding continues

undismissed for a period of 60 or more days; provided, that if a Guarantor is the subject of a bankruptcy proceeding and the O&M Contractor obtains within thirty (30) days of the event a replacement guaranty on the same terms as the guaranty provided by such Guarantor from another guarantor reasonably acceptable to the Company, then such event will not constitute an O&M Contractor event of default. However, the O&M Contractor will not be required to secure a replacement guaranty pursuant to the preceding sentence if the Bonds have been repaid in full at the time of such event. In addition, if a Guarantor other than Fluor Corporation is the subject of a bankruptcy proceeding, then the O&M Contractor must secure a replacement guaranty only if the Technical Advisor determines that the ability of Fluor Corporation to honor its guaranty is materially less than its ability to do so as of the execution date of the O&M Contract;

(b) The O&M Contractor fails to make payment of any undisputed amounts owed by the O&M Contractor to the Company, and such payment is not made in full within thirty (30) days following written notice;

(c) The O&M Contractor fails, for any reason other than failure of the Company to make payments to the O&M Contractor when obligated, to make payments due to its subcontractors, and such failure is not remedied as required by applicable law;

(d) The O&M Contractor fails to comply in any material respect with any operating requirement under the O&M Contract or requirements of any applicable law or permit in the performance of the Services and such failure is not remedied within fifteen (15) days following written notice;

(e) The O&M Contractor abandons the Services for a period of thirty (30) consecutive days;

(f) The O&M Contractor fails to provide or maintain in effect the O&M Letter of Credit or any replacement security in the required amount and terms, and such failure is not remedied within five (5) days following written notice, or the O&M Contractor fails to provide the Handover Security in the required amount and terms and the Company is unable to cover the amount of the Handover Security by deductions from the Monthly Operator's Fee;

(g) Any Guarantor fails to provide or maintain in effect its guaranty, and such failure is not remedied within five (5) days following written notice;

(h) The O&M Contractor fails to commence pre-operations Services on the Phase 1 Work Commencement Date, and such failure is not remedied within sixty (60) days following written notice; provided, that the availability of the 60-day cure period will not affect the O&M Contractor's obligations or liabilities under the Interface Agreement should it fail to perform any pre-operations Services from and after the Phase 1 Work Commencement Date;

(i) The O&M Contractor fails to comply with any material insurance requirement and such failure is not remedied within twenty (20) days following written notice;

(j) With respect to any Commuter Rail Project, the O&M Contractor fails to commence the operations Services (A) within five (5) days after the date specified in the operations notice to proceed for such Commuter Rail Project or (B) if later, the date specified by the District pursuant to the Concession Agreement;

(k) The O&M Contractor operates the Concessionaire-operated Components in a manner violating the O&M Contract and endangering the safety of passengers following a written notice from the Company or the District outlining such safety concerns;

(l) The O&M Contractor breaches the assignment restrictions set forth in the O&M Contract or its obligations in respect of subcontracting;

(m) Any of the representations or warranties made by the O&M Contractor in the O&M Contract prove to have been materially untrue or incorrect when made to the extent that such breach of representation or

warranty has a material adverse effect on the Services or the Project as a whole or the interests of the Company, and such failure is not remedied within thirty (30) days following written notice;

(n) A change in control of the O&M Contractor occurs or is proposed to occur (other than any such change resulting from a bona fide open market transaction in securities effected on a recognized public stock exchange) and the District requests termination of the O&M Contract as provided in the Concession Agreement;

(o) The Availability Ratio of any Commuter Rail Service (treating the Gold Line Service and the Northwest Electrified Rail Segment as a single Commuter Rail Service) is less than 89% in five or more calendar months of any rolling seven-month period; provided, that a single, continuous event lasting no more than 30 days extending across two calendar months and directly causing the Availability Ratio in both such months to fall below 89%, shall be deemed to have resulted in an Availability Ratio of less than 89% in the first such month only;

(p) The Performance Deduction Percentage exceeds 2.9% of the Adjustable Base Service Payment for the relevant month in five or more calendar months of any rolling seven-month period;

(q) The O&M Contractor fails to deliver a remedial plan or to diligently implement an approved remedial plan, and such failure is not remedied within thirty (30) days following written notice;

(r) With respect to any Commuter Rail Project, the requirements for Final Completion for which the O&M Contractor is responsible are not fulfilled; and

(s) The O&M Contractor otherwise is in default of the Contract Documents and such failure continues for thirty (30) days after written notice or a longer cure period, as may be permitted; provided that in the case of any such default that has a corresponding "Concessionaire Termination Event" under the Concession Agreement, then the cure period will be twenty (20) days after written notice from the Company.

None of the cure periods permitted for an O&M Contractor event of default will exceed the cure period for the corresponding "Concessionaire Termination Event" under the Concession Agreement.

The Company may terminate the O&M Contract immediately with no opportunity for cure or a remedial program upon the occurrence of an event described in clauses (a), (o) or (p). If any other event described in clauses (a) through (s) above has occurred for which a cure period is provided, the O&M Contractor will remedy the default within the applicable cure period or, alternatively, solely in respect of events described in clauses (k) and (l) above, prepare a reasonable remedial program satisfying the requirements of the Concession Agreement and submit the same for the Company's approval, in each case, during which time the Company may not exercise its right to terminate the O&M Contract. The Company's approval of a remedial program or any agreed amendments to any program will be contingent upon the District's approval of such program or such amendments. If the O&M Contractor fails to cure a default or the Company believes that urgent action is necessary to cure a default, and the Company elects not to exercise its termination rights, the Company may remedy such default with the cost to be borne by the O&M Contractor. If the O&M Contractor proposes a remedial program and the Company's approval is not obtained or if a remedial program is approved but the O&M Contractor subsequently does not act in accordance with such program, the Company may, if the default is continuing, terminate the O&M Contract with immediate effect.

Termination Payments to the Company. If the Company terminates the O&M Contract as described above and/or the District terminates the Concession Agreement in accordance with the terms thereof and such termination is a result of a breach by the O&M Contractor of its obligations under the O&M Contract, the O&M Contractor is responsible for paying the following amounts to the Company: (a) costs reasonably incurred by the Company in replacing the O&M Contractor to perform the Services, (b) all direct damages suffered or incurred by the Company as a result of such termination and/or the acts or omissions of the O&M Contractor leading to such termination, including, where the Concession Agreement has not been terminated, the costs and expenses reasonably attributable to the employment of a different operator to fulfill the O&M Contractor's obligations and services, and any loss of Service Payment attributable to any delay in the achievement of the Revenue Service Commencement Date of any Commuter Rail Project as a result of such termination, (c) any damages incurred by the Company in respect of a

failure by the O&M Contractor to properly fulfill the residual lifecycle requirements of the Concessionaire-operated Components in accordance with the terms of the Concession Agreement, and (d) any damages, costs and expenses suffered or incurred by the Company under the Concession Agreement, the Bond financing documents (including principal, interest and other amounts payable thereunder) or any other related agreement as a result of such termination.

Step-In Rights of the Company and the District Following an O&M Contractor Event of Default. During the continuation of an uncured O&M Contractor event of default, subject to the terms of the direct agreement with the Trustee on behalf of the Owners of the Bonds, the Company may, and the District has the right to, without prejudice to any of its other rights or remedies, do any of the following: (a) require the O&M Contractor to carry out handover procedures as may be necessary for the Company or the District to take over the operation and maintenance of the Concessionaire-operated Components; (b) suspend payment of the Monthly Operator's Fee or the Service Payments, as applicable; and (c) without terminating the O&M Contract or the Concession Agreement, as applicable, following any applicable cure or step-in periods afforded the District or the Trustee, as applicable, suspend the O&M Contractor's operation of the Concessionaire-operated Components, remove the O&M Contractor from any project sites and take over the performance of the Project at the O&M Contractor's cost. Notwithstanding the suspension or removal of the O&M Contractor, the O&M Contractor is not released from its obligations, liabilities or responsibilities under the O&M Contract (except with respect to the suspension) until the O&M Contract is terminated by the Company.

Termination for Company Event of Default

Company Events of Default. The O&M Contractor is entitled to terminate the O&M Contract for any of the following reasons (each, to the extent continuing beyond the expiration of the applicable cure period, called a "Company event of default"):

(a) The Company makes a general assignment for the benefit of its creditors, is generally unable to pay its debts as they become due, or becomes the subject of any voluntary or involuntary bankruptcy proceeding and, with respect to any involuntary proceeding, such proceeding continues undismissed for a period of 60 or more days;

(b) The Company fails to make payment of any undisputed amounts to the O&M Contractor (unless such failure is due to the failure of the District to make any corresponding payment when due under the Concession Agreement) and such failure continues for thirty (30) days after written notice; and

(c) Only if relief cannot be provided by issuance of a Modification, the Company otherwise is in default or has failed to perform any of its other material obligations under the O&M Contract and such failure continues for thirty (30) days after written notice (or such longer permitted cure period).

Upon the occurrence of a Company event of default under clause (b) above, the O&M Contractor may suspend performance of the Services and, if the Company fails to pay the undisputed portion of the Monthly Operator's Fee then due and owing within ninety (90) days after written notice of such non-payment, terminate the O&M Contract. Upon the occurrence of a Company event of default under clause (a) above, the O&M Contractor may terminate the O&M Contract to take effect immediately. If the O&M Contractor exercises its right to terminate for a Company event of default, the O&M Contractor will not have the right to terminate less than all of the Services. Any right of the O&M Contractor to terminate the O&M Contract is subject to all cure rights of the District under the Concession Agreement and of the Trustee pursuant to its direct agreement with the Company and the O&M Contractor.

In the event the O&M Contractor terminates the O&M Contract as described above the Company will pay the following amounts to the O&M Contractor as the O&M Contractor's sole and exclusive remedy: (a) Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor, and (b) Operator Breakage Costs.

The District Termination of Concession Agreement

If the District terminates the Concession Agreement as a result of a breach by the Company (and not a result of a breach by the O&M Contractor), the Company will pay the O&M Contractor the O&M Contractor termination payments in an amount equal to (a) the Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor, and (b) Operator Breakage Costs, as the O&M Contractor's sole and exclusive remedy, and hold the O&M Contractor completely harmless for any damages or claims incurred by the O&M Contractor as a result of such termination. To the extent the District terminates the Concession Agreement as a result of a breach by the O&M Contractor of its obligations under the O&M Contract, the O&M Contractor will compensate the Company for any damages incurred by the Company as a result of such termination, which damages will include return of (but not return on) any equity invested in the Company and any amounts required to be paid by the Company to the Owners of the Bonds which is due and payable as a result of such termination.

Other Termination

Without prejudice to any other provision of the O&M Contract, and subject to the payment in full by the Company to the O&M Contractor of termination payments equal to the sum of (a) the Monthly Operator's Fees which are due and payable to the O&M Contractor for Services performed up to the date of termination and which have not previously been paid to the O&M Contractor, and (b) Operator Breakage Costs, as the O&M Contractor's sole and exclusive remedy, the O&M Contract will automatically terminate and have no further force and effect in the following circumstances:

(a) Subject to the provisions regarding restoration set forth in the O&M Contract, where a force majeure event has occurred and either (i) the consequences of such event are continuing for a period of 180 consecutive days or more or have materially prevented or delayed the Company or the District from performing a substantial proportion of its obligations under the Concession Agreement for a period of 180 days or more in aggregate within a period of 360 consecutive days; or (ii) the Company or the District has determined that a restoration plan is unfeasible in accordance with the Concession Agreement, and the Company or the District terminates the Concession Agreement; and

(b) In the event the Concession Agreement is terminated as a result of an "RTD Termination Event" as defined in the Concession Agreement, or as a result of a termination by either the District or the Company for the District's failure to issue a Full Phase 1 Notice to Proceed by December 31, 2011 pursuant to Section 5.13(b) of the Concession Agreement, or as a result of a termination by the District if it elects not to increase the Maximum Limited Phase 1 Work Value pursuant to Section 5.13(c) of the Concession Agreement.

Operator Breakage Costs will be payable to the O&M Contractor in connection with the termination events described in clauses (a) and (b) above only to the extent the corresponding "Subcontractor Breakage Costs" payable in respect of the "RTD Default Amount" or the "FM Termination Amount" (each as defined in the Concession Agreement), as applicable, (A) are received by the Company from the District, (B) such amounts are incurred by the O&M Contractor under arrangements and/or agreements that are consistent with terms that have been entered into in the ordinary course of business and on commercially reasonable terms, and (C) the O&M Contractor and any relevant subcontractor have each used its reasonable efforts to mitigate such amounts.

Transition Following Termination

Upon termination of the O&M Contract, the O&M Contractor will cease to occupy the Project and will deliver up the Project and the project sites and all stocks of spares and consumables as are on hand as of such time to the Company or, if the Company requests, will hand over and transfer ownership of title to the Concessionaire-operated Components to the District free of all encumbrances and free of charge. The O&M Contractor will also carry out the handover procedures in coordination with the Company and the District in accordance with the Concession Agreement. During a period of three (3) months immediately following a termination of the O&M Contract, the O&M Contractor will transition the performance of the Services to a replacement operator. Among other tasks, the O&M Contractor will provide full access to the Project and the project sites and to all data and records relating to the Project and the Services, deliver and assign to the Company, the District or the replacement

operator, as the case may be, all of its right, title and interest in and to any subcontracts, purchase orders, bonds and options made by the O&M Contractor in the performance of the Services, and comply with all reasonable requests by the Company, the District or the replacement operator in connection with taking over the operation and maintenance responsibilities as are necessary to facilitate the orderly transition of duties from the O&M Contractor to the replacement operator. If requested by the Company, the O&M Contractor will make every reasonable effort to cancel any existing subcontracts upon terms satisfactory to the Company. The O&M Contractor will also have certain responsibilities with respect to transitioning its personnel and employees as specified in the O&M Contract.

End-of-Term Handover Responsibilities

At the expiration of the Operating Period, the O&M Contractor will hand over and, to the extent not already owned by the District, transfer ownership of title to the Concessionaire-operated Components, free of all encumbrances and free of charge, to the District in a condition which could reasonably be expected of an equivalent commuter rail system which has been operated for the same period and has been maintained in accordance with the performance standards described above, and is capable of complying with the performance standards for a period of not less than (i) with respect to the Commuter Rail Network, three (3) years and (ii) with respect to the Rolling Stock, one (1) year, in each case, from the Concession Expiry Date. The O&M Contractor will carry out the handover and reinstatement work procedures set forth in the Concession Agreement, including, without limitation, participating in any inspection, examination or review of the Concessionaire-operated Components or project sites, carrying out the reinstatement work, procuring all required warranties with respect to the reinstatement work, obtaining and maintaining the Handover Security, and making timely payment of Handover Amounts, if any. If all or any portion of the Handover Security or Handover Amounts, if any, are not provided by the O&M Contractor as required, the Company will be entitled to deduct such amounts from the Monthly Operator's Fee. The O&M Contractor will ensure that the handover and reinstatement work procedures are fully completed by the expiration of the Operating Period. If the handover and reinstatement work procedures are not completed by such time as a result of the O&M Contractor's or a subcontractor's fault, the O&M Contractor will operate the Concessionaire-operated Components until the handover is completed without being entitled to payment of any Monthly Operator's Fee.

Assignment

Neither the Company nor the O&M Contractor will have the right to assign or delegate the O&M Contract, either voluntarily or involuntarily, or by operation of law, without the prior written consent of the other party in its sole discretion. However, the Company may assign all of its rights and interests in and under the O&M Contract to the Trustee as collateral security for the benefit of the Owners of the Bonds and the O&M Contractor will enter into a direct agreement with the Trustee on behalf of the Owners of the Bonds if requested. The Company also may assign to the District any or all of its rights under the O&M Contract and the other Contract Documents to the extent required under the Concession Agreement without the O&M Contractor's consent.

Disputes

Generally

With the exception of the disputes relating to a Modification, any dispute between the Company and the O&M Contractor under the O&M Contract not exceeding $1,000,000 shall be submitted by either of them to binding arbitration by JAMS in Denver, Colorado, unless the parties agree otherwise to another location. Any dispute between the parties exceeding $1,000,000 in value will be submitted to the exclusive jurisdiction and venue of the federal and state courts in Denver, Colorado. Each of the parties irrevocably and unconditionally waives trial by jury in any legal action or proceeding or any counterclaim under the O&M Contract.

Any dispute between the Company and the O&M Contractor under the O&M Contract relating to a Modification will be submitted to a fast-track adjudication process agreed in the O&M Contract with the goal of resolving such dispute within 90 days of the O&M Contractor's submission of the applicable Modification.

In addition, any dispute between the Company and the O&M Contractor under the O&M Contract relating to (a) the amount or other terms of any claim to be presented by the Company to the District under the Concession

Agreement as a result of the occurrence of a Relief Event, including an RTD Proposed Change or Change in Law Change, a directive letter or a force majeure event, each entitling the O&M Contractor to claim a Modification, or (b) any other event affecting the O&M Contractor's performance of the Services in respect of which the Company has a right under the Concession Agreement to seek payment or other relief from the District, the Company may allow the O&M Contractor to participate in the presentation of the claim to and negotiations of the claim with the District but the Company must allow the O&M Contractor to bring in the Company's name any claim asserted in good faith against the District related to the Services for the O&M Contractor's own benefit under the O&M Contract.

Disputes under the Concession Agreement

Notwithstanding any other provision in the O&M Contract to the contrary, if any issue in dispute between the parties is also the subject of, or relates to, a dispute being, or to be determined by a "Dispute Resolution Panel" or arbitration under the Concession Agreement, the parties will seek to cause their dispute to be consolidated with the dispute resolution process occurring under the Concession Agreement. If such consolidation does not occur, then any ongoing proceeding regarding such dispute will be stayed pending final resolution of the dispute under the Concession Agreement, which resolution will be binding on the parties for all purposes of the O&M Contract.

Partnering Program

The District and the Company may use the partnering program provided under the Concession Agreement to consider and address any material or sustained and unforeseeable increases or decreases in operation and maintenance costs and, in the case of any such increases, to the extent that such increases have or are reasonably likely to have a material adverse effect on the ability of the Company to continue to perform its obligations under the Concession Agreement. The O&M Contractor will attend a partnering meeting with the District and the Company on or about the tenth anniversary following the first Revenue Service Commencement Date to occur and on or about every tenth anniversary thereafter prior to the expiration of the Operating Period to consider any material or sustained increases or decreases in operation and maintenance costs and present any proposed amendments to the Service Payments. The O&M Contractor is entitled to initiate the partnering program process for the purposes described above, in which case, in coordination with the Company, it will prepare and comply with all submittals and attend all meetings with the District and the Company as required by the terms of the Concession Agreement. If the Company initiates such partnering program process, the O&M Contractor will cooperate with the Company to provide all information and otherwise facilitate the partnering process. If as a result of such partnering program process, the calculation of Service Payments under the Concession Agreement is amended, the O&M Contractor and the Company will execute a Modification that contains amendments corresponding to the amendments being made to the calculation of Service Payments. The O&M Contractor agrees that if an amendment to the calculation of Service Payments results in an increase to the Service Payment at any time such that the District is required to appropriate additional funds not previously appropriated to pay such increased amount, then the O&M Contractor will be entitled to payment of any corresponding increase to its Monthly Operator's Fees only to the extent that, and at such times as, the Company has received the corresponding increased amount to its Service Payments from the District.

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APPENDIX G

SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The following is a summary of selected provisions of the Indenture and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement.

The parties have entered into the Indenture to provide for the issuance of bonds for the purpose of providing the Series 2010 Loan pursuant to the Loan Agreement to the Company, which will be used by the Company to finance a portion of the cost of the Project.

Grant of Trust Estate

The Issuer, in consideration for the purchase of the Bonds by the Owners and other good and valuable consideration, in order to secure the payment of the Bonds, to secure the performance and observance of all the covenants and conditions set forth in the Bonds and the Indenture, has executed and delivered the Indenture and has pledged and assigned or required to be pledged and assigned, to the Trustee, subject to the Security Documents, for the benefit of the Owners, all of the following described property, franchises, rights and income, including any title or interest therein acquired after the date of the Indenture (collectively, the "Trust Estate"):

(a) all right, title and interest of the Issuer (except for Reserved Rights) in and to the Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed) and the present and continuing right of the Issuer to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed), to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Issuer is entitled to do under the Loan Agreement, and any Additional Parity Bonds Issuer Loan Agreement (if executed);

(b) all moneys from time to time held by the Trustee under the Indenture in any fund or account other than (i) the Rebate Fund and (ii) any Defeasance Escrow Account;

(c) any Security Interest created for the benefit of the Trustee on behalf of the Owners of the Bonds under the Security Documents or otherwise, including without limitation the Project Collateral pledged thereunder, and, the present and continuing right of the Trustee to make claim for, collect, receive and receipt for any of the sums, amounts, income, revenues, issues and profits and any other sums of money payable or receivable under the Security Documents, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Trustee is entitled to do under such Security Documents; and

(d) any and all other property, revenues, rights or funds from time to time under the Indenture by delivery or by writing of any kind specially granted, assigned or pledged as and for additional security for any of the Bonds, any Additional Parity Bonds (if issued), the Loan Agreement or any Additional Parity Bonds Issuer Loan Agreement (if executed) in favor of the Trustee, including any of the foregoing granted, assigned, or pledged by the Company, which has been authorized under the Indenture to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture and the terms of the Lockbox Account Agreement.

Amounts Received Pursuant to the Lockbox Account Agreement

All funds provided pursuant to the Lockbox Account Agreement for deposit into any fund or account of the Indenture will be available together with other moneys then on deposit in such funds and accounts to be used for the applicable purposes as set forth in the Indenture.

Time of Pledge; Delivery of Trust Estate

The creation, perfection, enforcement, and priority of the pledge of revenues by the Issuer to secure or pay the Bonds as provided in the Indenture will be governed by Section 11-57-208 of the Supplemental Act, the Bond Resolution and the Indenture. The revenues pledged for the payment of the Bonds, as received by or otherwise credited to the Issuer, will immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge on the revenues pledged for payment of the Bonds and the obligation to perform the contractual provisions made under the Indenture and in the Bond Resolution will have priority over any or all other obligations and liabilities of the Issuer except as otherwise provided in the Indenture. The lien of such pledge will be valid, binding and enforceable as against all Persons having claims of any kind in tort, contract or otherwise against the Issuer irrespective of whether such Persons have notice of such liens.

Bonds Secured on Equal and Proportionate Basis

The Trust Estate will be held by the Trustee for the equal and proportionate benefit of the Owners and any of them, without preference, priority or distinction as to lien or otherwise.

Limited Obligations

The Bonds are special, limited obligations of the Issuer, payable solely from and secured solely by the Trust Estate and are not, and will not be deemed to constitute an obligation, moral or otherwise, of the State, any other agency, instrumentality or political subdivision of the State, or any official, board member, director, officer, employee, agent or representative of any of the foregoing, and neither the full faith and credit nor the taxing power of the Issuer, the State or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal of and interest on the Bonds. The Owners of the Bonds may not look to any revenues of the Issuer for repayment of the Bonds and the only sources of repayment of the Bonds are revenues provided by the Company to the Issuer pursuant to the Series 2010 Issuer Loan Agreement and any Additional Parity Bonds Issuer Loan Agreement (if executed) for the payment of the principal of, premium, if any, and interest on the Bonds, and the Bonds do not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State. The payment of the Bonds will not be secured by any encumbrance, mortgage or other pledge of property of the Issuer, other than the Trust Estate. No property of the Issuer, subject to such exception, will be liable to be forfeited or taken in payment of the Bonds. Neither the members of the Board nor any persons executing the Bonds will be liable personally on the Bonds by reason of the issuance thereof.

Supplemental Act

The Issuer has elected in the Bond Resolution to apply all of the Supplemental Act to the Bonds, and the Bonds will recite that they are issued pursuant to the Supplemental Act. Pursuant to Section 11-57-210 of the Supplemental Act, such recital will be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

Method and Place of Payment

The Trustee will act as paying agent for the purpose of effecting payment of the principal of, redemption premium, if any, and interest on the Bonds. The principal of, redemption premium, if any, and interest on the Bonds will be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of and the redemption premium, if any, on all Bonds will be payable by check or draft or by such other method as mutually agreed in writing between the Owner of the Bond and the Trustee at maturity or upon earlier redemption to the Owners in whose names such Bonds are registered on the bond register maintained by the Trustee at the maturity date or redemption date thereof, upon the presentation and surrender of such Bonds at the Designated Payment Office of the Trustee. The interest payable on each Bond on any Interest Payment Date will be paid by the Trustee to the Owner of such Bond as shown on the bond register at the close of business on the Record Date.

Registration of Bonds; Transfer and Exchange of Bonds

Records for the registration and transfer of the Bonds will be kept by the Trustee as the registrar for the Bonds. The principal of and interest on and Redemption Price of any Bond will be payable only to or upon the order of the Owner or his legal representative (except as otherwise provided in the Indenture with respect to Record Dates and Special Record Dates for the payment of interest).

Upon surrender for transfer of any Bond at the Designated Payment Office of the Trustee, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney duly authorized in writing, the Trustee will enter such transfer on the registration records and will execute and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of a like maturity, aggregate principal amount and interest rate, bearing a number or numbers not previously assigned. Fully registered Bonds may be exchanged at the Designated Payment Office of the Trustee for an equal aggregate principal amount of Bonds of the same maturity and interest rate but of other Authorized Denominations. The Trustee will execute and deliver Bonds, which the Owner making the exchange is entitled to receive, bearing numbers not previously assigned. The Trustee may require the payment by the Owner of any Bond requesting exchange or transfer of any reasonable charges as well as any taxes, transfer fees or other governmental charges required to be paid with respect to such exchange or transfer.

The Trustee will not be required to transfer or exchange (a) all or any portion of any Bond during the period beginning at the opening of business 15 days before the day of the mailing by the Trustee of notice calling any of the Bonds for prior redemption and ending at the close of business on the day of such mailing, or (b) all or any portion of a Bond after the mailing of notice calling such Bond or any portion thereof for prior redemption.

Except as otherwise provided in the Indenture with respect to Record Dates and Special Record Dates for the payment of interest, the person in whose name any Bond will be registered will be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on or Redemption Price of any Bond will be made only to or upon the written order of the Owner thereof or his legal representative, but such registration may be changed as provided in the Indenture. All such payments will be valid and effectual to satisfy and discharge such Bond to the extent of the sum or sums paid.

Establishment of Funds and Accounts

The following Funds and Accounts will be created and established under the Indenture:

(a) "Denver Transit Partners Eagle P3 Project Construction Account" (the "Indenture Construction Account"), and within the Indenture Construction Account, a sub-account designated the "Series 2010 Bonds Sub-Account" (the "Series 2010 Bonds Sub-Account");

(b) "Denver Transit Partners Eagle P3 Project Change In Law Contingency Account" (the "Indenture Change In Law Contingency Account");

(c) "Denver Transit Partners Eagle P3 Project Debt Service Reserve Account" (the "Debt Service Reserve Account");

(d) "Denver Transit Partners Eagle P3 Project Debt Service Fund" (the "Debt Service Fund"), and within the Debt Service Fund, three accounts designated (i) the "Interest Account" (the "Interest Account"), (ii) the "Principal Account" (the "Principal Account") and (iii) the "Redemption Account" (the "Redemption Account"); and

(e) "Denver Transit Partners Eagle P3 Project Rebate Fund" (the "Rebate Fund").

Notwithstanding anything in the Indenture to the contrary, the Trustee may from time to time establish and maintain additional funds, accounts or subaccounts necessary or useful in connection with any other provision of the Indenture or any Supplemental Indenture or to the extent deemed necessary by the Trustee.

Indenture Construction Account.

(a) The Trustee will deposit into the Series 2010 Bonds Sub-Account of the Indenture Construction Account all net proceeds of the Bonds, except for such net proceeds deposited into the Debt Service Reserve Account and the Indenture Change In Law Contingency Account pursuant to the Indenture.

(b) There will also be deposited into the Indenture Construction Account, including any sub-account thereof, (i) any excess amounts in the Rebate Fund, (ii) certain amounts transferred from the Indenture Change In Law Contingency Account and (iii) all other moneys received by the Trustee that are accompanied by directions from the Company that such moneys are to be deposited into the Indenture Construction Account.

(c) Project Costs will be paid from the various sub-accounts of the Indenture Construction Account. The Company will be entitled to open new sub-accounts of the Indenture Construction Account by providing to the Trustee instructions in respect of the same, including for the purpose of depositing the proceeds of any Additional Parity Bonds issued pursuant to the Indenture and permitted to be incurred by the Financing Documents. Such sub-accounts will be maintained in order to account for the receipt and disbursement of proceeds (and all earnings thereon) of the Bonds. Amounts in the Series 2010 Bonds Sub-Account and any sub-account created in connection with the issuance of any Additional Parity Bonds will be used to pay, or reimburse for a prior payment of, (i) a portion of the Project Costs, (ii) Cost of Issuance of the Bonds and (iii) a portion of the interest coming due on the Bonds during the Design Build Period, to the extent permitted by the Code.

(d) Amounts in the Indenture Construction Account will be transferred by the Trustee as directed in the applicable Indenture Construction Account Withdrawal Certificate, on any Business Day upon receipt by the Trustee of such Indenture Construction Account Withdrawal Certificate signed by a Company Representative and a related Technical Advisor Certificate signed by the Technical Advisor (which Technical Advisor Certificate will not be required for any withdrawal solely to pay (i) Costs of Issuance of the Series 2010 Bonds or any Additional Parity Bonds, (ii) interest on the Bonds or (iii) certain O&M Expenditures), not later than the third Business Day prior to the requested transfer.

(e) Any Construction Account Withdrawal Certificate must be provided in substantially the form as set forth in the Indenture and, in addition to other information, must set forth the following as of the date of such certificate:

(i) the amount requested;

(ii) no Potential Event of Default or "event of default" under any Financing Document has occurred and is continuing or will occur as a result of the withdrawal;

(iii) no event has occurred since the Closing Date which would reasonably be expected to have a Material Adverse Effect;

(iv) no Governmental Decision has been appealed or challenged in any court or before any agency, board, tribunal or similar entity which would reasonably be expected to have or does have a Material Adverse Effect;

(v) no Governmental Decision for which a complete and final application has been submitted has been denied or rejected in a manner which would reasonably be expected to have or does have a Material Adverse Effect; and

(vi) other than previously disclosed in writing by the Company, there has been no historical or new Release of Hazardous Materials at, on, under, around or migrating to or from any property that is associated with or part of the Project that would reasonably be expected to cause or does cause a Material Adverse Effect.

(f) Notwithstanding subsections (d) and (e) above, at any time prior to the Last Revenue Service Commencement Date, the Trustee will (without further instruction) transfer moneys on deposit in the Indenture Construction Account, to the extent any such moneys are available, as follows:

(i) On any Transfer Date immediately prior to any Interest Payment Date, amounts on deposit in the Indenture Construction Account will be transferred to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of interest on the Bonds on such Interest Payment Date, after taking into account the amounts then on deposit in the Interest Account of the Debt Service Fund (if any) for payment of interest on the Bonds; and

(ii) On any Transfer Date immediately prior to any Principal Payment Date, amounts on deposit in the Indenture Construction Account will be transferred to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of principal on the Bonds on such Principal Payment Date after taking into account the amounts then on deposit in the Principal Account of the Debt Service Fund (if any) for payment of principal of the Bonds.

(g) At any time prior to the Last Revenue Service Commencement Date, if on the fourth Business Day prior to any Transfer Date immediately prior to any Interest Payment Date or Principal Payment Date, as applicable, there are insufficient moneys on deposit in the Indenture Construction Account to pay interest on or principal of the Bonds on the next Interest Payment Date or Principal Payment Date, as applicable, the Trustee will notify the Account Bank of such deficiency and direct the Account Bank to make a transfer of moneys from the Borrower Construction Account or the Revenue Account to the applicable sub-account of the Debt Service Fund pursuant to the Lockbox Account Agreement.

(h) Except as otherwise required by any applicable law, to the extent that on the Last Revenue Service Commencement Date, there will be any funds remaining on deposit in the Indenture Construction Account, including the Series 2010 Bonds Sub-Account of the Indenture Construction Account, any sub-account created in connection with the issuance of any Additional Parity Bonds or any sub-account thereof, such amounts will be transferred for deposit into the Revenue Account on such date pursuant to written notice and instructions from the Company.

Debt Service Reserve Account

(a) The Debt Service Reserve Account will be funded by the Company on the Closing Date from net proceeds of the Bonds in an amount at least sufficient to satisfy the Debt Service Reserve Requirement set forth in the Indenture. After the first Revenue Service Commencement Date to occur with respect to the Project, to the extent available, funds will be deposited from the Revenue Account into the Debt Service Reserve Account to fund any shortfall in accordance with the Lockbox Account Agreement.

(b) Amounts in the Debt Service Reserve Account will be transferred to the Interest Account of the Debt Service Fund, or any applicable sub-account thereof, solely to pay the interest on the Bonds and to the Principal Account of the Debt Service Fund, or any applicable sub-account thereof, solely to pay the principal of the Bonds in the event there are insufficient funds available in such Accounts of the Debt Service Fund when such payments are due.

(c) After the first Revenue Service Commencement Date to occur with respect to the Project, to the extent on any date of determination, amounts on deposit in the Debt Service Reserve Account are in excess of the Debt Service Reserve Requirement, such excess amounts will be transferred by the Trustee to the Revenue Account established pursuant to the Lockbox Account Agreement upon the written direction of the Company to the Trustee.

Indenture Change In Law Contingency Account

The Indenture Change In Law Contingency Account initially will be funded with proceeds of the Bonds on the Closing Date in the amount of $3,000,000. Subject to compliance with the Loan Agreement, amounts deposited in the Indenture Change In Law Contingency Account may be used for any payments required by the Company in

connection with any Incurred Costs related to a Change in Law pursuant to the Concession Agreement. Pursuant to written instructions signed by a Company Representative delivered to the Trustee not later than the third Business Day prior to the expected date of applicable withdrawals and transfers, the Company will have the right to make withdrawals from the Indenture for such purposes or to instruct the Trustee to transfer any moneys deposited in the Indenture Change In Law Contingency Account to the Series 2010 Bonds Sub-Account of the Indenture Construction Account. On the third anniversary of the Closing Date, without further instruction, the Trustee will transfer any moneys remaining on deposit in the Indenture Change In Law Contingency Account to the Indenture Construction Account, or any appropriate sub-account thereof.

Debt Service Fund

(a) There will be deposited into the appropriate account of the Debt Service Fund: (i) amounts remitted or transferred to such account from the Revenue Account pursuant to the Lockbox Account Agreement; (ii) any moneys paid to the Trustee pursuant to the Lockbox Account Agreement with respect to the Redemption Price of the Bonds; (iii) any amounts remitted or transferred to such account from the Series 2010 Bonds Sub-Account of the Indenture Construction Account pursuant to the Indenture; (iv) any amounts remitted or moneys transferred to such Account from the Debt Service Reserve Account pursuant to the Indenture; (v) any moneys deposited into such account pursuant to an exercise of remedies under the Indenture and the Lockbox Account Agreement; (vi) any amounts remitted or moneys transferred to such account from the Borrower Construction Account pursuant to the Lockbox Account Agreement or the Indenture; and (vii) all other moneys received by the Trustee that are accompanied by directions that such moneys are to be deposited into such account.

(b) To the extent that, on any applicable Debt Service Payment Date, there are insufficient funds on deposit in the Debt Service Fund to make the required payments of principal and interest on the Bonds, then the Trustee will transfer moneys between the Interest Account and the Principal Account with the following order of priority: first, to the Interest Account until such Account is sufficiently funded and second, to the Principal Account.

(c) Moneys in each account of the Debt Service Fund will be used solely for the payment (within each Account) of the principal of and interest on and the Redemption Price of the Bonds; provided, that (i) moneys paid by the Issuer for the redemption of the Bonds will be used to pay the Redemption Price of the Bonds and (ii) moneys held in such account of the Debt Service Fund following an acceleration of the Bonds upon an Event of Default will be used as provided in "Use of Moneys Received from Exercise of Remedies" below.

Rebate Fund

The Rebate Fund will be for the sole benefit of the United States of America and will not be subject to the claim of any other Person, including without limitation, the Owners. The Rebate Fund is established for the purpose of complying with section 148 of the Code and the Treasury Regulations promulgated pursuant thereto. There will be deposited into the Rebate Fund all amounts transferred to such Fund pursuant to the Lockbox Account Agreement. The Rebate Fund is not a portion of the Trust Estate and is not subject to any lien under the Indenture.

Moneys to be Held in Trust

The Debt Service Fund and any other fund or account created under the Indenture (excluding the Rebate Fund, and any Defeasance Escrow Account) will be held by the Trustee, for the benefit of the Owners of the Bonds as specified in the Indenture. The Rebate Fund will be held by the Trustee for the purpose of making payments to the United States in accordance with the Federal tax laws. Any Defeasance Escrow Account will be held solely for the benefit of the Owners of the Bonds to be paid therefrom as provided in the agreement governing such Defeasance Escrow Account.

Investment of Moneys

(a) All moneys held as part of any fund or account (other than the Debt Service Fund) will be deposited or invested and reinvested by the Trustee, at the written direction of the Company, in Permitted Investments; *provided*, however, that moneys in the Debt Service Fund will be invested solely in direct obligations

of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof; and *provided further*, however, that moneys in any Defeasance Escrow Account may only be invested in Defeasance Securities.

(b) Earnings from the investment of moneys held in any fund or account and losses from the investment of moneys held in any fund or account will be charged against the fund or account in which they were realized.

(c) The Trustee will sell and reduce to cash a sufficient amount of the investments held in any fund or account whenever the cash balance therein is insufficient to make any payment to be made therefrom, and the Trustee will not be liable or responsible for any loss or tax resulting from such sale.

Trustee as Indenture Securities Intermediary

(a) The Debt Service Reserve Account, the Indenture Change In Law Contingency Account and the Indenture Construction Account will be established and maintained under the Indenture as securities accounts with a securities intermediary (the "Indenture Securities Accounts") and pursuant to the Indenture, the Trustee and the Issuer agree that the Trustee will act as the securities intermediary (in such capacity, the "Indenture Securities Intermediary") under and for the purposes of the Indenture and for so long as it (or any successor thereto) is the Trustee.

(b) The Indenture Securities Intermediary agrees with the Trustee and the Issuer that each of the Indenture Securities Accounts will be an account to which financial assets may be credited and undertake to treat the Trustee as entitled to exercise the rights that comprise such financial assets. The Indenture Securities Intermediary agrees with the Trustee and the Issuer that each item of property credited to each Indenture Securities Account will be treated as a financial asset. Each of the Trustee and the Indenture Securities Intermediary will represent and warrant that it has not entered into any agreement or taken any other action that gives any Person other than the Trustee control over any of the Indenture Securities Accounts or that is otherwise inconsistent with the Indenture. Each of the Trustee and the Indenture Securities Intermediary agrees that it will not become a party to any agreement or take any action that gives any Person other than the Trustee control over any of the Indenture Securities Accounts or that is otherwise inconsistent with the Indenture. The Indenture Securities Intermediary agrees that any financial assets credited to such Indenture Securities Accounts, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, shall not be subject to any security interest, lien, encumbrance or right of setoff in favor of the Indenture Securities Intermediary or anyone claiming through the Indenture Securities Intermediary (other than the Trustee).

(c) It is the intent of the Trustee, the Issuer and the Company that the Trustee be the entitlement holder with respect to the Indenture Securities Accounts. In any event, the Indenture Securities Intermediary agrees that it will comply with entitlement orders with respect to the Indenture Securities Accounts originated by the Trustee without further consent by the Issuer or any other Person. The Indenture Securities Intermediary will covenant that it will not agree with any Person other than the Trustee to comply with entitlement orders with respect to the Indenture Securities Accounts originated by any Person or entity other than the Trustee.

(d) The Indenture Securities Intermediary will not change the name or account number of any Indenture Securities Account without the prior written consent of the Trustee and at least five (5) Business Days' prior notice to the Trustee and the Company, and shall not change the entitlement holder. The Indenture Securities Intermediary will at all times act as a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) in maintaining the Indenture Securities Accounts and will credit to each Indenture Securities Account each financial asset to be held in or credited to each Indenture Securities Account pursuant to the Indenture. To the extent, if any, that the Trustee is deemed to hold directly, as opposed to having a security entitlement in, any financial asset held by the Indenture Securities Intermediary for the Trustee, the Indenture Securities Intermediary will agree that it is holding such financial asset as the agent of the Trustee and will acknowledge and agree that it has received notification of the

Secured Parties' security interest in such financial asset and that it is holding possession of such financial asset for the benefit of the Secured Parties.

(e) Each Indenture Securities Account will remain at all times with a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) that is a bank organized under the laws of the United States of America or any state thereof that has offices in the State of New York with unsecured long-term debt which must be rated "A" or better by S&P or "A2" or better by Moody's and that has a total capital stock and unimpaired surplus of not less than $500,000,000. The Indenture Securities Intermediary will give notice to the Trustee and the Company of the location of the Indenture Securities Accounts and of any change thereof prior to the use or change thereof.

(f) Any income received by the Trustee with respect to the balance from time to time on deposit in each Indenture Securities Account, including any interest or capital gains on investments in overnight securities made with amounts on deposit in each Indenture Securities Account, will be credited to the applicable Indenture Securities Account. All right, title and interest in and to the cash amounts on deposit from time to time in each Indenture Securities Account together with any investments in overnight securities from time to time made pursuant to the indenture will constitute part of the Project Collateral for the Bond Obligations pledged to the Trustee pursuant to the Security Agreement and will be held for the benefit of the Trustee, the other Secured Parties and the Company as their interests will appear under the Indenture and will not constitute payment of the Bond Obligations (or any other obligations to which such funds are provided hereunder to be applied) until applied thereto as provided in the Indenture.

(g) In the event that, notwithstanding the last sentence of subsection (b) above, the Indenture Securities Intermediary has or subsequently obtains by agreement, operation of law or otherwise a security interest in any of the Indenture Securities Accounts, or any financial asset credited thereto, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, the Indenture Securities Intermediary will agree that such security interest will be subordinate to the security interest of the Trustee.

(h) The "securities intermediary's jurisdiction" of the Indenture Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) will be the State of New York.

(i) Terms used in this Section that are defined in the UCC shall have the meaning set forth in the UCC. Without limiting the foregoing, the term "securities intermediary" will, with respect to book-entry securities, have the meaning given to it under 31 C.F.R. Part 357 (sale and issue of marketable book-entry Treasury bills, notes and bonds); 12 C.F.R. Part 615 (book-entry securities of the Farm Credit Administration and related conditions); 12 C.F.R. 987 (book-entry securities of the Financial Federal Housing Board), 12 C.F.R. Part 1511 (book-entry securities of the Resolution Funding Corporation); 24 C.F.R. Part 81 (book-entry securities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation); 31 C.F.R. Part 354 (book-entry securities of the Student Loan Marketing Association); 18 C.F.R. Part 1314 (book-entry securities of Tennessee Valley Authority); and 24 C.F.R. Part 350 (book-entry securities of Government National Mortgage Association).

(j) To the extent that the Debt Service Reserve Account, the Indenture Change In Law Contingency Account and the Indenture Construction Account are not considered "securities accounts" (within the meaning of Section 8-501(a) of the UCC), the Debt Service Reserve Account, the Indenture Change In Law Contingency Account and the Indenture Construction Account will be deemed to be "deposit accounts" (as defined in Section 9-102(a)(29) of the UCC), which the Trustee will maintain with the Indenture Securities Intermediary acting not as a securities intermediary but as a "bank" (within the meaning of Section 9-102(a)(8) of the UCC). The Indenture Securities Intermediary will agree to comply with any and all instructions originated by the Trustee directing disposition of funds in the Debt Service Reserve Account, the Indenture Change In Law Contingency Account and the Indenture Construction Account without any further consent of the Company or the Issuer.

Monthly Reports to Account Bank

To facilitate the administration of the funds and accounts under the Indenture and the related transfers between such funds and accounts and the accounts established and created pursuant to the Lockbox Account Agreement, the Trustee will agree to provide a monthly report to the Account Bank four Business Days prior to each Transfer Date setting forth, among other things, the balance for each fund and account, including any sub-accounts, established and created pursuant to the Indenture.

Covenants of the Issuer

The Issuer has made representations, warranties and covenants under the Indenture, including, but not limited to the following:

(a) The Issuer will not, except as specifically permitted pursuant to the Indenture or pursuant to any Security Document, pledge, grant, create or permit to exist in any manner any Security Interest on, or rights with respect to, the Trust Estate, except for a contract or agreement under which the financial obligations of the Issuer and the rights of any Person to require the Issuer to make any payment are (i) limited to (A) moneys in the funds and accounts that are to be used pursuant to such contract or agreement for the purposes for which moneys in such funds and accounts may be used pursuant to the Indenture or (B) moneys of the Issuer that are not part of the Trust Estate; and (ii) subordinate to the rights of the Owners of the Bonds under the Indenture

(b) The Issuer will not take any action or omit to take any action with respect to the Bonds, the proceeds of the Bonds, the Trust Estate, the Project or any other funds or property of the Issuer, and it will not permit, to the extent of its control, any other Person to take any action or omit to take any action with respect to the Bonds, the Trust Estate, the Project or any other funds or property of the Issuer if such action or omission would cause interest on any of the Bonds to be included in gross income for federal income tax purposes. In furtherance of this covenant, the Issuer agrees to comply with the procedures set forth in the Federal Tax Certificate for the Bonds. The covenants set forth in this clause will remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all of the Issuer obligations in fulfilling such covenants have been met.

(c) The Issuer will not create, incur, assume or permit to exist any indebtedness of the Issuer with respect to the Trust Estate pledged under the Indenture, other than the Bonds, unless the Company will direct the Issuer to issue Additional Parity Bonds pursuant to the Indenture.

Events of Default

Any of the following will constitute an "Event of Default" under the Indenture with respect to all of the Outstanding Bonds:

(a) Default in the payment of any portion of the principal of any Outstanding Bond when due and payable;

(b) Default in the payment of any portion of interest on any Outstanding Bond when due and payable;

(c) Failure by the Issuer to cure any noncompliance with any other provision of the Indenture within 60 days after receiving written notice (with a copy to the Company) of such noncompliance from the Trustee with respect to the Bonds;

(d) A Loan Agreement Default will have occurred and be continuing; or

(e) The occurrence and continuance, with respect to the Issuer, of a Bankruptcy Event (provided that solely for purposes of this clause, all references to the "Company" within the definition of the term "Bankruptcy Event" will be substituted with the "Issuer").

Remedies Following and During the Continuance of an Event of Default

(a) Upon the occurrence and during the continuance of an Event of Default, any Owner or the Issuer may deliver to the Trustee a written notice, with a copy to the Issuer and the Company that an Event of Default has occurred and is continuing. The Trustee will not be deemed to have any knowledge of the occurrence of an Event of Default, except with respect to an "event of default" described in clauses (a) or (b) of subsection "Events of Default", unless and until it has received such a notice from the relevant party.

(b) At any time during which an Event of Default has occurred and is continuing commencing on the date of delivery to the Trustee of the notice described in subsection (a) above (except with respect to an "event of default" described in subsections (a) or (b) of "Events of Default" in which no notice will be required), the Owners of not less than 25% in Bond Obligations will have the right to give the Trustee one or more enforcement directions directing the Trustee to take on behalf of the Owners of the Bonds whatever action at law or in equity may appear necessary or desirable to enforce the rights of the Owners of the Bonds.

(c) Upon the occurrence and during the continuance of an Event of Default, if so instructed by the Owners of not less than 25% in Bond Obligations, the Trustee, subject to the immediately succeeding proviso, will declare all Outstanding Bonds, all interest accrued and unpaid thereon, and all other amounts payable in respect of the Bonds to be due and payable, whereupon the same will become immediately due and payable without presentment, demand, protest or further notice of any kind; provided that the Outstanding Bonds may be accelerated pursuant to this clause (c) only to the extent the underlying Series 2010 Loan under the Loan Agreement will have been accelerated.

(d) The Owners of a majority in aggregate principal amount of the Bond Obligations may, by written notice to the Trustee, on behalf of all of the Owners, rescind any acceleration and its consequences, if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived and the Issuer has paid or deposited, or caused to be paid or deposited, with the Trustee a sum sufficient to pay all sums paid or advanced by the Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

(e) All rights, actions and claims under the Indenture may be prosecuted and enforced by the Trustee on behalf of the Owners of the Bonds. In the case of pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization or other similar judicial proceeding relative to the Issuer or the Trust Estate, the Trustee, subject to the Lockbox Account Agreement, will be entitled to file and prove a claim for the amount of the Issuer's and the Company's obligations to the Owners of the Bonds owing and unpaid and to file such other papers or documents as may be necessary in order to have the claims of the Owners allowed in such judicial proceeding and, to the extent permitted by Law, to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same in accordance with the terms of the Indenture and the Lockbox Account Agreement.

Use of Moneys Received from Exercise of Remedies

After an acceleration pursuant to clause (c) of "Remedies Following and During the Continuance of an Event of Default" directly above, moneys received by the Trustee under the Indenture and from the Account Bank under the other Security Documents in respect of the Issuer's obligations under the Indenture will be applied first to pay the reasonable and proper fees and expenses (including the reasonable fees and expenses of counsel) of the Trustee incurred in connection with the exercise of remedies following such Event of Default, and thereafter remaining amounts will be applied promptly by the Trustee as follows:

First, ratably, to the payment of fees, rating agency costs, administrative costs, expenses and indemnification payments due to the Trustee under the Financing Documents and to the payments then due and payable by the Company to the Rebate Fund;

Second, ratably, to all accrued and unpaid interest on the Bonds;

Third, ratably, to the outstanding principal amount on the Bonds and the Promissory Notes;

Fourth, to all accrued and unpaid interest on any Permitted Subordinated Debt;

Fifth, to the outstanding principal amount on any Permitted Subordinated Debt; and

Sixth, to the Company, upon termination, expiration or payment in full of all commitments, any surplus to be applied at the Company's discretion.

Limitations on Rights of Owners Acting Individually

Subject to the Lockbox Account Agreement, no Owner will have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any remedy under the Indenture or for the enforcement of the terms of the Indenture, unless an Event of Default under the Indenture has occurred and is continuing and the Owner has made a written request to the Trustee, and has given the Trustee 60 days, to take such action in its capacity as Trustee. Nothing in this section will affect or impair the right of the Owner to enforce the payment of the principal of and interest on or Redemption Price of any Bond at and after the date such payment is due, subject, however, to the limitations on remedies set forth in the Indenture. In addition, any action by any Owner taken with respect to the Trust Estate will only be taken in accordance with the provisions of the Indenture, described above under subsection "Remedies Following and During the Continuance of an Event of Default."

Waivers of Events of Default

The Trustee, notwithstanding anything else to the contrary contained in the Indenture, will waive any Event of Default upon the written direction of Owners of not less than 25% of the Bond Obligations; provided, however, that any Event of Default in the payment of the principal of or interest on, or the Redemption Price of, any Bond when due will not be waived (except as contemplated in subsection (d) of "Remedies Following and During the Continuance of an Event of Default" above) without the consent of the Owners of 100% of the Bond Obligations represented by the Bonds, unless, prior to such waiver, all such amounts (with interest on amounts past due on any Bond at the interest rate on such Bond) and all expenses of the Trustee in connection with such Event of Default have been paid or provided for. In case of any such waiver, then and in every such case the Issuer, the Trustee and the Owners will be restored to their former positions and rights under the Indenture, but no such waiver will extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Resignation or Replacement of Trustee

(a) The present or any future Trustee may resign by giving written notice to the Issuer (with a copy to the Company) not less than 60 days before such resignation is to take effect. Such resignation will take effect only upon the appointment of and acceptance by a successor qualified as provided in clause (c) below. If no successor is appointed within 60 days following the date designated in the notice for the Trustee's resignation to take effect, the resigning Trustee may petition a court of competent jurisdiction for the appointment of a successor. The present or any future Trustee may be removed at any time by the Issuer in the event the Issuer reasonably determines that the Trustee is not duly performing its obligations under the Indenture or that such removal is in the best interests of the Issuer or the Owners.

(b) In case the present or any future Trustee will at any time resign or be removed or otherwise become incapable of acting, a successor may be appointed by the Issuer, with the written consent of the Company (such consent not to be unreasonably withheld, delayed or conditioned). Upon making any such appointment, the Issuer will forthwith give notice thereof to each Owner, which notice may be given concurrently with the notice of resignation given by any resigning Trustee.

(c) Every successor Trustee will be a bank or trust company in good standing, qualified to do business in the State, duly authorized to exercise trust powers and subject to examination by federal or state authority, qualified to act under the Indenture and having a capital and surplus of not less than $500,000,000. Any successor Trustee appointed under the Indenture will execute, acknowledge and deliver to the Issuer (with a copy to the

Company) an instrument accepting such appointment under the Indenture, and thereupon such successor will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor as further provided in the Indenture.

Supplemental Indentures Not Requiring Consent of Owners

The Issuer and the Trustee may, without the consent of, or notice to, the Owners, but with the written consent of the Company, enter into a Supplemental Indenture for any one or more or all of the following purposes:

(a) to provide for the issuance by the Issuer of the Additional Parity Bonds in accordance with "Additional Parity Bonds" below;

(b) to add additional covenants to the covenants and agreements of the Issuer set forth in the Indenture;

(c) to add additional revenues, properties or collateral to the Trust Estate;

(d) to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in the Indenture;

(e) to amend any existing provision in the Indenture or to add additional provisions which, in the opinion of Bond Counsel, are necessary or advisable (i) to qualify, or to preserve the qualification of, the interest on any Bonds for exclusion from gross income for federal income tax purposes; (ii) to qualify, or to preserve the qualification of, the Indenture or any Supplemental Indenture under the Federal Trust Indenture Act of 1939; or (iii) to qualify, or preserve the qualification of, any Bonds for an exemption from registration or other limitations under the laws of any state or territory of the United States;

(f) to amend any provision in the Indenture relating to the Rebate Fund if, in the opinion of Bond Counsel, such amendment does not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes;

(g) to provide for or eliminate book-entry registration of any of the Bonds;

(h) to obtain or maintain a rating of the Bonds by a Nationally Recognized Rating Agency;

(i) to facilitate the receipt of moneys;

(j) to establish additional funds, accounts or subaccounts necessary or useful in connection with any other provision of this section; or

(k) in connection with any other change which, in the judgment of the Trustee (who may for such purposes rely entirely upon a legal opinion with respect thereto of counsel selected by the Trustee, which legal counsel may rely on a certificate of an investment banker or financial advisor with respect to financial matters), does not materially adversely affect the rights of the Owners, including, without limitation, conforming the Indenture to the terms and provisions of the Concession Agreement.

Supplemental Indentures Requiring Consent of Owners

The Issuer and the Trustee may enter into a Supplemental Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or modifying the rights of the Owners in any way under the Indenture (other than as contemplated in subsection "Supplemental Indentures not Requiring Consent of Owners" above) with the written consent of the Owners of a majority in the aggregate principal amount of the then Outstanding Bonds of any series of Bonds affected by the proposed amendment and with the written consent of the Company; *provided*, *however*, that no Supplemental Indenture

modifying the Indenture in the way described below may be entered into without the written consent of the Owner of each Bond affected thereby:

(a) a reduction of the interest rate, principal of or interest on or Redemption Price payable on any Bond, a change in the maturity date of any Bond, a change in any Interest Payment Date for any Bond or a change in the redemption provisions applicable to any Bond;

(b) the deprivation of an Owner of the Security Interest on the Trust Estate granted by the Indenture;

(c) the creation of a priority right in the Trust Estate of another Bond over the right of the affected Bond, except as permitted under the Indenture; or

(d) a reduction in the percentage of the aggregate Bond Obligations required for consent to any Supplemental Indenture or the parties whose consent is required.

Conditions to Effectiveness of Supplemental Indentures

(a) No Supplemental Indenture will be effective until (i) it has been executed by the Issuer and the Trustee and, when applicable, the Company and (ii) Bond Counsel has delivered a written opinion to the effect the Supplemental Indenture complies with the provisions of the Indenture and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any series of Outstanding Bonds where the interest on such Bonds was excludable from gross income for federal income tax purposes on the original date of issuance of such Bonds.

(b) No Supplemental Indenture entered into pursuant to subsection "Supplemental Indentures Requiring Consent of Owners" above will be effective until, in addition to the conditions set forth in clause (a) of this section, (i) a notice has been mailed to each Owner, which notice describes the nature of the proposed Supplemental Indenture and states that copies of it are on file at the office of the Trustee for inspection by the Owners and (ii) subject to the provisions of any Supplemental Indenture, Owners of the required percentage of the Bond Obligations have consented to the Supplemental Indenture.

(c) Anything in the Indenture to the contrary notwithstanding, if an Owner does not respond (in any way) to a request with respect to any Supplemental Indenture requiring consent of a majority of the Owners, but not requiring consent from greater than a majority of Owners, pursuant to "Supplemental Indentures Requiring Consent of Owners" above, within twenty (20) Business Days of delivery of such request, then any Bonds owing to such Owner will not be counted for the purpose of calculating the consent of a majority of Owners. For the avoidance of doubt, this provision of the Indenture will not apply to clauses (a)–(d) of subsection "Supplemental Indentures Requiring Consent of Owners" above.

Consent of the Company

Anything in the Indenture to the contrary notwithstanding, a Supplemental Indenture pursuant to the terms of the Indenture will not become effective unless and until the Company will have consented to the execution and delivery of such Supplemental Indenture. In this regard, the Trustee will cause notice of the proposed execution of any such Supplemental Indenture together with a copy of the proposed Supplemental Indenture to be mailed to the Company at least fifteen (15) Business Days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Amendments to Loan Agreement Not Requiring Consent of Owners

The Issuer may (i) upon receipt of an opinion of Bond Counsel to the effect that the proposed amendment will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes and is authorized by the Indenture and (ii) upon the receipt of the written consent of the Company, consent to any amendment, change or modification of the Loan Agreement, without the consent of, or notice to, the Owners, for any one or more or all of the following purposes:

(a) to add additional covenants to the covenants and agreements of the Company set forth in the Loan Agreement;

(b) to cure any ambiguity, or to cure, correct or supplement any defect or omission or inconsistent provision contained in the Loan Agreement;

(c) to amend any existing provision in the Loan Agreement or to add additional provisions which, in the opinion of Bond Counsel, are necessary or advisable (i) to qualify, or to preserve the qualification of, the interest on any Bonds for exclusion from gross income for federal income tax purposes or (ii) to qualify, or preserve the qualification of, any Bonds for an exemption from registration or other limitations under the laws of any state or territory of the United States;

(d) to facilitate the receipt of moneys;

(e) to establish additional funds, accounts or subaccounts necessary or useful in connection with any other provision of this section; or

(f) in connection with any other change which, in the judgment of the Trustee (who may for such purposes rely entirely upon a legal opinion with respect thereto of counsel selected by the Trustee, which legal counsel may rely on a certificate of an investment banker or financial advisor with respect to financial matters), does not materially adversely affect the rights of the Owners, including, without limitation, conforming the Loan Agreement to the terms and provisions of the Concession Agreement.

Amendments to Loan Agreement Requiring Consent of Owners

Except for the amendments, changes or modifications as provided in the Indenture, the Issuer may consent to any other amendment, change or modification of the Loan Agreement with the prior written consent of the Owners of a majority in the aggregate principal amount of the then Outstanding Bonds and with the written consent of the Company; provided, however, that no amendment, change or modification of the Loan Agreement may be entered into in respect of the matters contemplated below unless the prior written consent of the Owner of each Bond affected thereby and the Company has been obtained:

(a) a reduction of the interest rate, principal of or interest on the Series 2010 Bonds Loan, a change in the maturity date of the Series 2010 Bonds Loan, a change in the Interest Payment Date for the Series 2010 Bonds Loan or a change in the prepayment provisions applicable to the Series 2010 Bonds Loan; or

(b) the deprivation of the Trustee of the Security Interest granted by the Security Documents.

The Trustee will, upon notice of the same from the Issuer and upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided in the Indenture with respect to Supplemental Indentures; *provided*, that prior to the delivery of such notice or request, the Trustee may require that an opinion of Bond Counsel be furnished to the effect that such amendment, change or modification complies with the provisions of the Indenture and will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes. Such notice will briefly set forth the nature of such proposed amendment, change or modification and will state that copies of the instrument embodying the same are on file at the Designated Payment Office of the Trustee for inspection by all Owners.

Additional Parity Bonds Issuer Loan Agreement

In the event that the Loan Agreement is amended pursuant to the Indenture prior to execution of the Additional Parity Bonds Issuer Loan Agreement, the form of Additional Parity Bonds Issuer Loan Agreement attached to the Indenture will be deemed to reflect such changes *mutatis mutandis*.

Actions of Trustee Requiring Owner Consent Pursuant to the Series 2010 Issuer Loan Agreement or any Additional Parity Bonds Issuer Loan Agreement

In the event that the Series 2010 Issuer Loan Agreement or any Additional Parity Bonds Issuer Loan Agreement (if executed) requires certain actions by the Trustee at the direction of a designated portion of the Owners of the applicable Bonds, the Trustee hereby agrees as follows:

(a) if the Company requests consent of the Trustee to be provided at the direction of a designated portion of the Owners of the applicable Bonds, the Trustee shall, upon notice of the same from the Company and upon being satisfactorily indemnified with respect to expenses, cause notice of such requested consent or action to be given in the same manner as provided by Section 9.3 of the Indenture with respect to Supplemental Indentures; provided, that prior to the delivery of such notice or request, the Trustee may require that an opinion of Bond Counsel be furnished to the effect that such consent or action complies with the provisions of the Indenture and will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes. Such notice shall briefly set forth the nature of such requested consent or action and shall state that any copies of such request from the Company are on file at the Designated Payment Office of the Trustee for inspection by all Owners; and

(b) upon direction from Owners of not less than the required percentage in aggregate principal amount of the Bonds, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, take any such directed action in accordance with the Series 2010 Issuer Loan Agreement or any Additional Parity Bonds Issuer Loan Agreement (if executed); *provided*, that prior to the delivery of such notice or request, the Trustee may require that an opinion of Bond Counsel be furnished to the effect that such consent or action complies with the provisions of the Indenture and will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes.

Discharge of Indenture

If 100% of the principal of and interest on and Redemption Price due, or to become due, on all the Bonds, the fees and expenses due to the Trustee and all other amounts payable under the Indenture have been paid, or provision will have been made for the payment thereof in accordance with "Defeasance of Bonds" below and the opinion of Bond Counsel required by "Opinion of Bond Counsel" below has been delivered, then, (a) the right, title and interest of the Trustee in and to the Trust Estate will terminate and be discharged (referred to herein as the "discharge" of the Indenture); (b) the Trustee will transfer and convey to or to the order of the Issuer all property that was part of the Trust Estate, including but not limited to any moneys held in any Fund or Account under the Indenture, except any Defeasance Escrow Account created pursuant to "Defeasance of Bonds" below (which Defeasance Escrow Account will continue to be held in accordance with the agreement governing the administration thereof and, and consistent with the Indenture, subject to any applicable abandoned property law, the Trustee will pay to the Company upon request any money held by it for the payment of principal of or interest on Redemption Price that remains unclaimed for three years, and, thereafter, Owners entitled to the money must look to the Company for payment); and (c) the Trustee will execute any instrument requested by the Issuer to evidence such discharge, transfer and conveyance.

Defeasance of Bonds

(a) All or any portion of the Outstanding Bonds will be deemed to have been paid (referred to herein as "defeased") prior to their maturity or redemption if:

(i) the defeased Bonds are to be redeemed prior to their maturity, the Issuer has irrevocably instructed the Trustee to give notice of redemption of such Bonds in accordance with the Indenture;

(ii) there has been deposited in trust in a Defeasance Escrow Account either moneys in an amount which will be sufficient, or Defeasance Securities, to pay the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited into or held in the Defeasance Escrow Account, will be sufficient to pay when due the

principal of and interest on or Redemption Price, as applicable, due and to become due on the defeased Bonds on and prior to the redemption date or maturity date thereof, as the case may be;

(iii) a verification agent, acceptable to the Issuer has delivered a verification report verifying the deposit described in paragraph (ii) of this subsection; and

(iv) the opinion of Bond Counsel required by "Opinion of Bond Counsel" below has been delivered.

(b) The Defeasance Securities and moneys deposited in a Defeasance Escrow Account pursuant to this section and the principal and interest payments on such Defeasance Securities will not be withdrawn or used for any purpose other than, and will be held in trust solely for, the payment of the principal of and interest on and Redemption Price of the defeased Bonds; *provided*, however, that (i) any moneys received from principal and interest payments on such Defeasance Securities that are not required to pay the principal of and interest on or Redemption Price of the defeased Bonds on the date of receipt will, to the extent practicable, be reinvested in Defeasance Securities maturing at the times and in amounts sufficient to pay when due the principal of and interest on and Redemption Price to become due on the defeased Bonds on or prior to the redemption date or maturity date thereof, as the case may be; and (ii) any moneys or Defeasance Securities may be withdrawn from a Defeasance Escrow Account if (A) the moneys and Defeasance Securities that are on deposit in the Defeasance Escrow Account, including any moneys or Defeasance Securities that are substituted for the moneys or Defeasance Securities that are withdrawn from the Defeasance Escrow Account, satisfy the conditions stated in subsection (a)(ii) of this section and (B) a verification report and Bond Counsel opinion are delivered that comply with subsections (a)(iii) and (a)(iv) of this section.

(c) Any Bonds that are defeased as provided in the "Defeasance of Bonds" section will no longer be secured by or entitled to any right, title or interest in or to the Trust Estate, and the principal of and interest on and Redemption Price thereof will be paid solely from the Defeasance Securities and money held in the Defeasance Escrow Account.

Opinion of Bond Counsel

Prior to any discharge of the Indenture pursuant to subsection "Discharge of Indenture" or the defeasance of any Bonds pursuant to subsection "Defeasance of Bonds" above, Bond Counsel must have delivered a written opinion to the effect that all requirements of the Indenture for such discharge or defeasance have been complied with and that such discharge or defeasance will not adversely affect the tax-exempt status of interest on any series of Bonds where the interest on such Bonds was excludable from gross income for federal income tax purposes on the original date of issuance of such Bonds.

Additional Parity Bonds

Subject to the restrictions set forth in the Indenture and upon request by the Company, the Issuer may issue Additional Phase 1 Parity Bonds or Other Permitted Parity Bonds (collectively, the "Additional Parity Bonds"), which will be ratably and equally secured by the Trust Estate, upon execution of a Supplemental Indenture without consent of the Owners of the Bonds pursuant to the Indenture. Except to the extent inconsistent with the express terms of the Additional Parity Bonds issued and the related Supplemental Indenture executed pursuant to the Indenture, all of the provisions, terms, covenants and conditions of the Indenture will be applicable to any Additional Parity Bonds issued under the Indenture.

Additional Phase 1 Parity Bonds

(a) Solely in the event that the Phase 2 Notice to Proceed has not been given by the District to the Company on or by December 31, 2011, and subject to the requirements set forth in subsection (b) hereof, the Issuer may issue Additional Phase 1 Parity Bonds in accordance with the Indenture.

(b) Such Additional Phase 1 Parity Bonds may be issued solely if the following conditions are met:

(i) Additional Phase 1 Parity Bonds may be issued up to an aggregate principal amount of $500,000,000 and must be issued on or by June 30, 2012;

(ii) Additional Phase 1 Parity Bonds must be issued on the same terms and conditions then applicable to the then Outstanding Bonds, unless otherwise approved by the Issuer and the Company, and except that the interest and amortization applicable to any such Additional Phase 1 Parity Bonds would be subject to then-current market conditions and on terms acceptable to the Company;

(iii) To the extent that any or all of the Series 2010 Bonds are outstanding at the time the Additional Phase 1 Parity Bonds are proposed to be incurred, the additional financing documents entered into in connection therewith (1) will not prohibit the Company from incurring new indebtedness to refinance such Series 2010 Bonds (at least to the extent permitted hereunder) and (2) will provide that all principal and interest payment dates with respect to such Additional Phase 1 Parity Bonds will be the same principal and interest payment dates as for the Series 2010 Bonds occurring on or before the maturity date of the Series 2010 Bonds;

(iv) Prior to the issuance of any Additional Phase 1 Parity Bonds, the Company must deliver to the Trustee the following:

(1) A certificate of the Company, signed by a Company Representative, dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds stating that no Potential Event of Default or Event of Default has occurred and is continuing or will result from the issuance of such Additional Phase 1 Parity Bonds;

(2) Executed counterparts of all financing documents related to the Additional Phase 1 Parity Bonds including, without limitation, (A) a certified copy of the executed counterpart of the Additional Parity Bonds Issuer Loan Agreement, under which the Issuer agrees to loan the proceeds of the Additional Phase 1 Parity Bonds to the Company, and (B) an original executed counterpart of the Supplemental Indenture under which the Additional Phase 1 Parity Bonds have been issued;

(3) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds certifying that (A) the Indebtedness under the Additional Phase 1 Parity Bonds will not result in a projected Total Debt Service Coverage Ratio as of each Calculation Date after December 31, 2016 of less than 1.35:1.00 and (B) on the date of issuance of such Additional Phase 1 Parity Bonds, the projected Loan Life Coverage Ratio as of the next succeeding Calculation Date after giving affect to the issuance of the Additional Phase 1 Parity Bonds is equal to or greater than 1.50:1.00;

(4) Evidence that upon the date of issuance of such Additional Parity Bonds that the then current ratings on any Outstanding Bonds issued pursuant to the Indenture will not be lowered on the date of such issuance as a result of the issuance of such Additional Phase 1 Parity Bonds; and

(5) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Additional Phase 1 Parity Bonds certifying that in every Fiscal Year after December 31, 2016 until the maturity date thereof, the ratio of the TABOR Portion to the annual debt service payable on all Outstanding Bonds after the issuance of such Additional Phase 1 Parity Bonds will be at least 1.00:1.00.

Other Permitted Parity Bonds

(a) Subject to the requirements set forth in this subsection (a) and subject to subsection (b) hereof, the Issuer may issue Other Permitted Parity Bonds in accordance with the Indenture, the proceeds of which will be used

(i) in connection with the Project, including to fund the obligations of the Company under Section 38.9 or Section 36.4 of the Concession Agreement or (ii) to refinance or refund all or any portion of Bonds then Outstanding.

(i) Such Other Permitted Parity Bonds may be issued solely if prior to the issuance of any such Other Permitted Parity Bonds, the Company delivers to the Trustee the following:

(A) A certificate of the Company, signed by a Company Representative, dated as of the date of issuance of such proposed Other Permitted Parity Bonds stating that no Potential Event of Default or Event of Default has occurred and is continuing or will result from the issuance of such Other Permitted Parity Bonds;

(B) Executed counterparts of all financing documents related to the Other Permitted Parity Bonds including, without limitation, (x) a certified copy of the executed counterpart of the Additional Parity Bonds Issuer Loan Agreement, under which the Issuer agrees to loan the proceeds of the Other Permitted Parity Bonds to the Company, and (y) an original executed counterpart of the Supplemental Indenture under which the Other Permitted Parity Bonds have been issued;

(C) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Other Permitted Parity Bonds certifying that (A) (i) for Other Permitted Parity Bonds issued prior to the one year anniversary of the Last Revenue Service Commencement Date, the Indebtedness under the Other Permitted Parity Bonds will not result in a projected Total Debt Service Coverage Ratio as of each Calculation Date after December 31, 2016 of less than 1.35:1.00 or (ii) for Other Permitted Parity Bonds issued on or after the one year anniversary of the Last Revenue Service Commencement Date, the Indebtedness under the Other Permitted Parity Bonds will not result in a Minimum Projected Debt Service Coverage Ratio after December 31, 2016 of less than 1.35:1.00 and (B) on the date of issuance of such Other Permitted Parity Bonds, the projected Loan Life Coverage Ratio as of the next succeeding Calculation Date after giving affect to the issuance of the Other Permitted Parity Bonds is equal to or greater of 1.50:1.00;

(D) Evidence that upon the date of issuance of such Other Permitted Parity Bonds the then current ratings on any then Outstanding Bonds issued pursuant to the Indenture will not be lowered on the date of such issuance as a result of the issuance of such Other Permitted Parity Bonds; and

(E) A certificate of an Independent Consultant dated as of the date of issuance of such proposed Other Permitted Parity Bonds certifying that in every Fiscal Year after December 31, 2016 until the maturity date thereof, the ratio of the TABOR Portion to the annual debt service payable on all Outstanding Bonds after the issuance of such Other Permitted Parity Bonds will be at least 1.00:1.00.

(b) Notwithstanding anything in this Section to the contrary, in the case of Other Permitted Parity Bonds issued for the purpose of refinancing or refunding any portion of the Bonds then Outstanding, compliance with subsection (a)(i) herein will not be required (unless otherwise required by the provisions of any applicable resolution or supplemental indenture authorizing the issuance of Additional Parity Bonds) so long as the debt service payable on all Bonds Outstanding after the issuance of such Other Permitted Parity Bonds in each Bond Year does not exceed the debt service payable on all Bonds Outstanding prior to the issuance of such Other Permitted Parity Bonds in each Bond Year.

Applicable Law

The laws of the State will be applied in the interpretation, execution and enforcement of the Indenture.

APPENDIX H

SUMMARY OF CERTAIN PROVISIONS OF THE LOCKBOX ACCOUNT AGREEMENT

The following is a summary of selected provisions of the Lockbox Account Agreement relating to the Project and is not a full statement of the terms of such agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement.

The Account Bank

Duties and Responsibilities

(a) Pursuant to the Lockbox Account Agreement, the Company will appoint The Bank of New York Mellon Trust Company, N.A. as the Account Bank and the Securities Intermediary and the Account Bank will administer the Lockbox Project Accounts and enforce the Lockbox Account Agreement. In most instances, the Account Bank will only be required to act or refrain from acting upon the written instructions of the Trustee or the Company; however, the written instructions of the Trustee or the Company will be required where expressly provided in the Lockbox Account Agreement.

(b) In no event will the Account Bank be required to foreclose on, or take possession of, the Lockbox Account Collateral, if, in its reasonable judgment, such action would be in violation of any applicable law, rule or regulation pertaining thereto, or if the Account Bank reasonably believes that such action would result in the incurrence of liability by the Account Bank for which it is not fully indemnified by the Company.

(c) The Account Bank will not be responsible to the Trustee for (i) any recitals, statements, representations or warranties by the Company or any of the Secured Parties (other than its own) contained in the Lockbox Account Agreement or the other Financing Documents, or any certificate or other document delivered by the Company or the Trustee thereunder, (ii) the value, validity, effectiveness, genuineness, enforceability (other than as to the Account Bank with respect to such documents to which the Account Bank is a party) or sufficiency of the Lockbox Account Agreement or any other document referred to or provided for therein or of the Lockbox Account Collateral held by the Account Bank under the Lockbox Account Agreement, (iii) the performance or observance by the Company or the Trustee (other than as to itself) of any of their respective agreements contained therein, nor will the Account Bank be liable because of the invalidity or unenforceability of any provisions of the Lockbox Account Agreement (other than as to itself) or (iv) the validity, perfection, priority or enforceability of the Security Interests on any of the Lockbox Account Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder (except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Account Bank), the validity of the title of the Company to the Lockbox Account Collateral, insuring the Lockbox Account Collateral or the payment of Taxes, charges or assessments on the Lockbox Account Collateral or otherwise as to the maintenance of the Account Collateral.

Limitation of Liability

Neither the Account Bank nor any of its directors, officers, employees or agents will be liable or responsible for any action taken or omitted to be taken by it or them under the Lockbox Account Agreement, except for its or their own gross negligence, bad faith or willful misconduct.

Administrative Actions

The Account Bank may, but is not obligated to, take action it deems necessary to perfect or continue the perfection of the liens on the Lockbox Account Collateral held for the benefit of the Secured Parties. The Account Bank will not release any of the Lockbox Account Collateral held for the benefit of the Secured Parties, except: (a) upon the written direction of the Trustee (acting in accordance with the terms of the Indenture); (b) upon payment in full of the Bond Obligations; (c) for Lockbox Account Collateral consisting of a debt instrument if the Indebtedness evidenced thereby has been paid in full; or (d) where such release is expressly permitted under the Lockbox Account Agreement.

Reliance of Account Bank

In connection with the performance of its duties under the Lockbox Account Agreement, the Account Bank will be entitled to rely conclusively upon, and will be fully protected in acting or refraining from acting in accordance with, any written certification, notice, instrument, opinion, request, consent, order, approval, direction or other written communication of the Trustee (including, but not limited to, instructions requested by the Account Bank under the Lockbox Account Agreement or the other Financing Documents), which the Account Bank in good faith reasonably believes to be genuine and to have been signed or sent by or on behalf of the proper person or persons, and it will be entitled to rely conclusively upon the due execution, validity and effectiveness, and the truth, correctness and acceptability of, any provisions contained therein. The Account Bank will not have any responsibility to make any investigation into the facts or matters stated in any notice, certificate, instrument, demand, request, direction, instruction or other communication furnished to it. Whenever the Lockbox Account Agreement specifies that any instruction or consent by the Trustee is to be given, the Account Bank will be entitled to rely upon any such instruction or consent by the Trustee, and the Account Bank may presume without investigation that any such instruction or consent by the Trustee has been given in accordance with the terms of the Indenture.

Resignation and Removal; Successor Account Bank; Individual Account Bank

Subject to the appointment and acceptance of a successor Account Bank, the Account Bank may resign at any time by giving at least thirty (30) days' prior written notice to the Trustee and the Company, and the Account Bank may be removed at any time, with or without cause. by the Trustee upon thirty (30) days' written notice thereof to the Account Bank, the Trustee and the Company. Upon any such resignation or removal, the Trustee will have the right to appoint a successor Account Bank which, so long as no Event of Default under the Financing Documents has occurred and is continuing, must be reasonably acceptable to the Company. If no successor Account Bank will have been so appointed by the Trustee within 30 days after the retiring Account Bank's giving of notice of resignation or the removal of the retiring Account Bank by the Trustee, then the retiring Account Bank may apply to a court of competent jurisdiction (with notice to the Trustee and the Company) for the appointment of a successor Account Bank. In all such cases, the successor Account Bank must (i) be a bank organized under the laws of the United States of America or any state thereof that has an office in the State of New York and which agrees to administer the Lockbox Account Collateral in accordance with the terms of the Lockbox Account Agreement and the unsecured long-term debt of which will be rated "A" or better by S&P or "A2" or better by Moody's, (ii) will have a total capital stock and unimpaired surplus of not less than $500,000,000 and, so long as no Event of Default under the Financing Documents has occurred and is continuing, must be reasonably acceptable to the Company and (iii) will assume all rights and obligations of the Account Bank as depositary under any deposit agreement, such assumption to be deemed to have occurred automatically without any further action by any party under such agreement upon the assumption of the Account Bank's rights and obligations by the successor Account Bank under the Lockbox Account Agreement. A Co-Account Bank appointed pursuant to the Lockbox Account Agreement will not be required to meet the conditions of eligibility above if such Co-Account Bank holds only an insubstantial amount of the Lockbox Account Collateral, as reasonably determined by the Trustee.

Books and Records; Reports

(a) The Account Bank will at all times keep, or cause to be kept, proper books of record and account of all transactions relating to the Bond Obligations, Project Revenues and all Lockbox Project Accounts established pursuant to the Lockbox Account Agreement. Such books of record and accounts will be available for inspection by the Trustee, the Issuer and the Company, or their authorized agents or representatives, at reasonable hours and under reasonable circumstances and upon reasonable prior written request.

(b) Four (4) Business Days prior to each Transfer Date, the Account Bank will furnish to the Trustee, the Issuer and the Company a report that sets forth, among other things, the account balances, disbursements, transfers, investment transactions and accruals for each of the Lockbox Project Accounts during the prior month.

(c) Within ninety (90) days after the end of each year, the Account Bank will furnish to the Trustee, the Issuer and the Company a report setting forth the account balances, receipts, disbursements, transfers, investment

transactions, and accruals for each of the Lockbox Project Accounts (other than the Operating Account) during the preceding year.

(d) The Account Bank will maintain records of all receipts, disbursements and investments of funds with respect to the Lockbox Project Accounts until the fifth anniversary of the date on which all of the Bond Obligations have been paid in full.

Account Bank's Claims Against Lockbox Project Accounts

The Account Bank will agree not to exercise or claim any right of offset, banker's lien or other like right against the Lockbox Project Accounts for so long as the Lockbox Account Agreement is in effect except with respect to (a) returned or charged-back items, reversals or cancellations of payment orders and other electronic fund transfers or other corrections or adjustments to the Lockbox Project Account or transactions therein, (b) overdrafts in the Lockbox Project Accounts or (c) the Account Bank's charges, fees and expenses with respect to the Lockbox Project Accounts or the services provided under the Lockbox Account Agreement. In the event that the Account bank has or subsequently obtains by agreement, by operation of law or otherwise a security interest in the Lockbox Project Accounts or any funds credited thereto, the Account Bank will agree that such security interest will be subordinate to the security interest of the Secured Parties.

Company Remains Liable

Notwithstanding anything in the Lockbox Account Agreement to the contrary, (a) the Company will remain liable under its contracts and agreements (including the Financing Documents) to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if the Lockbox Account Agreement had not been executed, (b) the exercise by the Account Bank of any of the rights under the Lockbox Account Agreement will not release the Company from any of its duties or obligations under such contracts and agreements, and (c) neither the Account Bank nor the Trustee will have any obligation or liability under the contracts and agreements of the Company by reason of the Lockbox Account Agreement, nor will the Account Bank be obligated to perform any of the obligations or duties of the Company under such contracts or agreements or to take any action to collect or enforce any claim for payment assigned thereunder. Notwithstanding the foregoing, if the Company fails to perform any agreement of the Company contained in the Lockbox Account Agreement relating to the perfection or preservation of the Lockbox Account Collateral, the Account Bank may itself perform such agreement at the expense of the Company pursuant to the Lockbox Account Agreement.

The Lockbox Project Accounts

Establishment of Lockbox Project Accounts

(a) The following Lockbox Project Accounts will be established and created in the name of the Company and under the exclusive control of the Account Bank (the Lockbox Project Accounts set forth in clauses (i) through (vii) collectively, the "Securities Accounts"):

(i) The Borrower Construction Account, which consists of the following: the Equity Contribution Sub-Account and the Construction Payment Sub-Account;

(ii) the Revenue Account, which consists of the Series 2010 Interest Sub-Account and the Series 2010 Principal Sub-Account.

(iii) the Renewal Works Reserve Account;

(iv) the Operating Account;

(v) the Distribution Account;

(vi) the Management Services Fee Account; and

(vii) the Borrower Change In Law Contingency Account.

(b) Upon the issuance of any Additional Parity Bonds, the Account Bank is authorized and instructed pursuant to the Lockbox Account Agreement to establish within the Revenue Account an interest sub-account and a principal sub-account, each subject to the Lockbox Account Agreement, for each series of Additional Parity Bonds issued (each such interest sub-account and the Series 2010 Interest Sub-Account, an "Applicable Interest Sub-Account" and each such principal sub-account and the Series 2010 Principal Sub-Account, an "Applicable Principal Sub-Account"). The Account Bank may establish and maintain additional sub-accounts within any of the Lockbox Project Accounts upon the written instruction of the Company. In such written instruction, the Company will expressly provide for the purposes and the term of any such sub-accounts and for any deposits and withdrawals in those circumstances.

(c) Except as expressly provided in the Lockbox Account Agreement, all of the Lockbox Project Accounts will be under the control of the Account Bank and the Company will not have any right to withdraw funds from any Lockbox Project Account. The Company will irrevocably authorize the Account Bank to credit funds to or deposit funds in, and to withdraw and transfer funds from, each Lockbox Project Account in accordance with the terms of the Lockbox Account Agreement.

Revenue Account

(a) Except as otherwise provided in the Lockbox Account Agreement, all Project Revenues received by the Company after the first Revenue Service Commencement Date to occur with respect to the Project, and any Applicable Termination Amount received by the Company at any time (subject to APPENDIX G—"SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE—Use of Moneys Received from Exercise of Remedies" and the sections "Withdrawal and Application of Funds; Priority of Transfers from Project Accounts; Event of Default" and "Termination Proceeds" herein) will be deposited into the Revenue Account. The Company will promptly deposit or cause to be deposited into the Revenue Account all other amounts received by the Company from any source whatsoever, except as otherwise specified in the Lockbox Account Agreement. Pending such deposit, the Company will hold all such amounts coming into its possession in trust for the benefit of the Secured Parties.

(b) Pursuant to, and subject to the limitations set forth in subsection (c) below, the Account Bank will transfer all amounts deposited into the Revenue Account pursuant to (a) above each month on the Transfer Date as follows and in accordance with the Revenue Account Transfer Certificate delivered by the Company to the Account Bank (with a copy to the Trustee):

First, to the payment of fees, administrative costs and expenses due to the Trustee and the Account Bank under the Financing Documents, to the payment of Reserved Rights to the Issuer, and to the payment of rating agency costs and to the payment of general overhead and other costs incurred by the Company in the ordinary course of business (but not including O&M Expenditures);

Second, to any payments then due and payable by the Company to the Rebate Fund or any similar rebate fund established with respect to any future tax-exempt Additional Parity Bonds;

Third, after application of any remaining available Equity Contributions and Construction Payments, if any, to the payment of Project Costs;

Fourth, to the Operating Account, an amount equal, together with amounts then on deposit therein, to the projected O&M Expenditures for one (1) month following the date of such transfer;

Fifth, to each Applicable Interest Sub-Account of the Revenue Account, (i) with respect to any Interest Payments on Outstanding Bonds that have an Interest Period of one month or less, the amount due on the next Interest Payment Date and any amount to become due before the next succeeding Transfer Date, taking into account amounts then on deposit in the Applicable Interest Sub-Account of the Revenue Account, and (ii) with respect to Interest Payments on Outstanding Bonds that have Interest Periods greater than one month, an amount equal to the Interest Payments due on the next Interest Payment Date divided

by the number of months in such Interest Period; *provided*, *however*, the monthly deposit on the Transfer Date immediately before an Interest Payment Date shall equal the amount required, together with the amount then on deposit in the Applicable Interest Sub-Account of the Revenue Account, to pay the Interest Payment due on such Interest Payment Date; and *provided further*, *however*, that if the amount available on the applicable Transfer Date is not sufficient to make all of the deposits required by clauses (i) and (ii), such deposits shall be made pro rata, in the amounts obtained by multiplying the amount available for transfer on such Transfer Date by the fraction obtained by dividing (1) the amount scheduled to be deposited in accordance with clause (i) or (ii) in each Applicable Interest Sub-Account of the Revenue Account on such Transfer Date, as applicable, by (2) the total amount scheduled to be deposited to all of the Applicable Interest Sub-Accounts of the Revenue Account on such Transfer Date;

Sixth, (a) to each Applicable Principal Sub-Account of the Revenue Account, Principal Payments for Outstanding Bonds of each series, starting on the Transfer Date that is six months before the first Principal Payment Date for the Bonds of such series and on each Transfer Date falling on or before each Principal Payment Date, an amount equal to 1/6th of the amount of the Principal Payments due on such Principal Payment Date; *provided*, *however*, that the deposit on the Transfer Date occurring immediately before a Principal Payment Date shall equal the amount required, taking into account the amount then on deposit in the Applicable Principal Sub-Account, to pay the Principal Payment due on such Principal Payment Date; and (b) to pay the principal of the Promissory Notes; *provided*, *however*, that if the amount available on the applicable Transfer Date is not sufficient to make all of the deposits required to be made on a Transfer Date, such deposits shall be made pro rata, in the amounts obtained by multiplying the amount available for transfer on such Transfer Date by the fraction obtained by dividing (A) the amount scheduled to be deposited in each Applicable Principal Sub-Account of the Revenue Account on such Transfer Date to pay principal on the Bonds or to pay the principal of the Promissory Notes, by (B) the principal amount of the Promissory Notes then outstanding plus the total amount scheduled to be deposited to all of the Applicable Principal Sub-Accounts of the Revenue Account on such Transfer Date to pay principal on the Bonds.

Seventh, to the Debt Service Reserve Account to fund any shortfall in the Debt Service Reserve Requirement;

Eighth, to the Renewal Works Reserve Account to fund any Renewal Works Deficiency;

Ninth, if any Transfer Date is a Potential Distribution Date, to pay any interest on any Permitted Subordinated Debt (other than Sponsor subordinated debt), so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied;

Tenth, if any Transfer Date is a Potential Distribution Date, to pay scheduled principal on any Permitted Subordinated Debt (other than Sponsor subordinated debt), so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied;

Eleventh, if any Transfer Date is a Potential Distribution Date, to pay any optional capital expenditures, so long as the Restricted Payment Conditions as certified by the Company to the Account Bank (with a copy to the Trustee) are satisfied; and

Twelfth, if any Transfer Date is a Potential Distribution Date, to the Distribution Account, unless the Company has otherwise instructed the Account Bank to retain all or a portion of the amount otherwise payable to the Distribution Account in the Revenue Account pursuant to the Revenue Account Transfer Certificate.

Notwithstanding anything in this subsection (b) above to the contrary:

(i) commencing on January 1 of any Fiscal Year for which adequate funds to meet any RTD Appropriation Obligations have not been included in such Fiscal Year's RTD Adopted Budget (an "Appropriation Deficiency") and for so long as such funds are not so included in such annual budget or a subsequent annual budget of the District, the TABOR Portion received by the Company will be applied in

the following order: first, to the payment of fees, administrative costs and other Company expenses; second, to payments to the Rebate Fund; third, to pay Interest Payments for deposit into each Applicable Interest Sub-Account of the Revenue Account; fourth, to pay Principal Payments for deposit into each Applicable Principal Sub-Account of the Revenue Account and principal of Promissory Notes; fifth, to the Operating Account (for the payment of demobilization costs and other reasonable O&M Expenditures incurred in connection with such demobilization or suspension of work on the Project), and seventh through twelfth above; and

(ii) if any Transfer Date is not a Potential Distribution Date, any amounts remaining after the applications of funds through eighth above will be retained in the Revenue Account.

The Trustee agrees to notify the Account Bank on or by January 1 of each Fiscal year if an Appropriation Deficiency has occurred. On or before the Revenue Service Commencement Date for the East Corridor Service, the Company will provide to the Account Bank (with a copy to the Trustee) a schedule (the "TABOR Schedule") setting forth the TABOR Portion applicable each month for the purposes of making the calculations required in this subsection (b), and thereafter shall promptly provide to the Account Bank an updated TABOR Schedule in the event of any change to the TABOR Portion applicable each month.

(c) The Company will deliver to the Account Bank (with a copy to the Trustee), the Revenue Account Transfer Certificate signed by a Company Representative, not later than the third Business Day prior to each Transfer Date. Each such Revenue Account Transfer Certificate will set forth the amounts proposed to be transferred from the Revenue Account to each other Project Account or other account of the Company on such Transfer Date in accordance with subclause (b) hereof. Notwithstanding the foregoing, if the effective interest rate on the applicable Bonds has been provided or is known to the Account Bank at the time of the proposed transfer, the Account Bank will be authorized to effect transfers of moneys on each Transfer Date from moneys on deposit in the Revenue Account in accordance with clauses fifth and sixth above to the Applicable Interest Sub-Account and to the Applicable Principal Sub-Account of the Revenue Account in such appropriate amounts without receipt of the Revenue Account Transfer Certificate.

(d) Notwithstanding subsection (c) above, the Account Bank will agree (without further instruction) to transfer moneys on deposit in any Applicable Interest Sub-Account or Applicable Principal Sub-Account as follows:

(i) On any Transfer Date immediately prior to an Interest Payment Date, after making the transfers required by clauses first through fifth of subsection (b) above, amounts on deposit in each Applicable Interest Sub-Account shall be transferred to the Trustee and applied by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of interest on the Bonds on such Interest Payment Date, after taking into account the amounts then on deposit in the Interest Account of the Debt Service Fund (if any) for payment of interest on the Bonds;

(ii) On any Transfer Date immediately prior to a Principal Payment Date, after making the transfers required by clauses first through sixth of subsection (b) above, amounts on deposit in each Applicable Principal Sub-Account shall be transferred to the Trustee and applied by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to make the required payments of principal on the Bonds on such Principal Payment Date, after taking into account the amounts then on deposit in the Principal Account of the Debt Service Fund (if any) for payment of the principal amount of the Bonds;

(iii) If on any Transfer Date immediately prior to any Interest Payment Date, after giving effect to the transfers set forth in clause (i) above but before giving effect to the transfers set forth in clause (ii) above, to the extent amounts on deposit in the Applicable Interest Sub-Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the interest due on the next Interest Payment Date, amounts on deposit first in the Borrower Construction Account, second in the Distribution Account, third in the Renewal Works Reserve Account and fourth the Applicable Principal Sub-Account shall be transferred to the Trustee for deposit by the

Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of interest on the Bonds on such Interest Payment Date; and

(iv) If on any Transfer Date immediately prior to any Principal Payment Date, after giving effect to the transfers set forth in clauses (i) through (iii) above, to the extent amounts on deposit in the Applicable Principal Sub-Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit first in the Borrower Construction Account, second in the Distribution Account and third in the Renewal Works Reserve Account, shall be transferred to the Trustee for deposit by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of principal on the Bonds on such Principal Payment Date.

(e) As necessary for the purposes of calculations to be made pursuant to clause (d) above, the Account Bank and the Trustee will each deliver a notice to the other, three (3) Business Days prior to each Transfer Date, of the account balance in the Borrower Construction Account, the Indenture Construction Account, the Debt Service Fund and all applicable sub-accounts thereof.

(f) Neither the Trustee nor the Account Bank will be obligated to monitor or verify (a) the accuracy of any Revenue Account Transfer Certificate provided to the Account Bank (with a copy to the Trustee) for the transfer or deposit of funds with respect to the Revenue Account, or (b) the use of amounts withdrawn from the Revenue Account pursuant to written instructions given by the Company.

(g) To the extent that, on any date of determination, amounts on deposit in the Debt Service Reserve Account are in excess of the Debt Service Reserve Requirement, such excess amounts will be deposited into the Revenue Account upon the written direction of the Company to the Trustee (with a copy to the Account Bank).

The Borrower Construction Account

(a) The Account Bank will deposit the following amounts received by it (i) all drawings under the Equity Letters of Credit into the Equity Contribution Sub-Account of the Borrower Construction Account, including any relevant sub-accounts thereof (except that draws on the Equity Letters of Credit by the Trustee to pay interest on the Bonds after giving effect to amounts available in the Debt Service Reserve Account will be deposited directly to the Debt Service Fund); (ii) all Construction Payments made to the Company prior to the Last Revenue Service Commencement Date into the Construction Payments Sub-Account of the Borrower Construction Account, including any relevant sub-accounts thereof; and (iii) all other moneys received by the Account Bank that are accompanied by directions from the Company that such moneys are to be deposited into such sub-account of the Borrower Construction Account as the Company will designate.

(b) Project Costs and the payment on the Promissory Notes will be paid from the various sub-accounts of the Borrower Construction Account. The Company will be entitled to open new sub-accounts of the Borrower Construction Account in order to account for the receipt and disbursement of certain payments by providing to the Account Bank instructions in respect of the same. Amounts in the Borrower Construction Account, and any sub-account created in connection therewith, (i) will be used to pay, or reimburse for a prior payment of, (A) a portion of the Project Costs, (B) Cost of Issuance of any Bonds pursuant to the Indenture, (C) a portion of the interest coming due on any Bonds issued pursuant to the Indenture during the Design Build Period and (D) amounts outstanding under the Promissory Notes, and (ii) may be used to fund the Borrower Change In Law Contingency Account, at the Company's option, pursuant to the terms of subsection (c) below;

(c) Amounts in the Borrower Construction Account will be transferred by the Account Bank as directed in the applicable Borrower Construction Account Withdrawal Certificate (substantially in the form set forth in the Lockbox Account Agreement), on any Business Day specified in such certificate, provided that the Account Bank has received (with a copy to the Trustee) such Borrower Construction Account Withdrawal Certificate signed by a Company Representative and accompanied by a related Technical Advisor Certificate (substantially in the form set forth in the Lockbox Account Agreement) signed by the Technical Advisor (which Technical Advisor Certificate will not be required for any withdrawal solely to pay (i) Costs of Issuance of Series 2010 Bonds or any Additional

Parity Bonds, (ii) interest on the Bonds or (iii) certain O&M Expenditures), not later than the third Business Day prior to the requested transfer.

(d) Notwithstanding subsection (c) above, the Account Bank will agree (without further instruction) to transfer moneys on deposit in the Borrower Construction Account as follows:

(i) On any Transfer Date immediately prior to any Interest Payment Date, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the interest due on the next Interest Payment Date, amounts on deposit in the Borrower Construction Account will be transferred by the Account Bank to the Trustee and applied by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of interest on the Bonds on such Interest Payment Date;

(ii) On any Transfer Date immediately prior to any Principal Payment Date, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit in the Borrower Construction Account will be transferred by the Account Bank to the Trustee and applied by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of principal on the Bonds on such Principal Payment Date;

(iii) If on any Transfer Date immediately prior to any Interest Payment Date, after giving effect to the transfers set forth in clause (i) above but prior to giving effect to the transfers set forth in clause (ii) above, are to the extent amounts on deposit in the Indenture Construction Account together with funds in the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the interest due on the next Interest Payment Date, amounts on deposit first in the Revenue Account, second in the Distribution Account, third in the Renewal Works Reserve Account, and fourth in the Applicable Principal Sub-Account shall be transferred to the Trustee for deposit by the Trustee to the Interest Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payments of interest on the Bonds on such Interest Payment Date; and

(iv) If on any Transfer Date immediately prior to any Principal Payment Date, after giving effect to the transfers set forth in clauses (i) through (iii) above, to the extent amounts on deposit in the Indenture Construction Account together with funds in the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, are insufficient to pay the principal due on the next Principal Payment Date, amounts on deposit first in the Revenue Account, second in the Distribution Account and third in the Renewal Works Reserve Account, shall be transferred to the Trustee for deposit by the Trustee to the Principal Account of the Debt Service Fund, or any appropriate sub-account thereof, to enable the Trustee to make the required payment of principal on the Bonds on such Principal Payment Date;

provided however that for as long as there are sufficient funds available for the payment of principal and interest in the Debt Service Fund and the Indenture Construction Account on any Transfer Date immediately prior to any Debt Service Payment Date, the Account Bank will not transfer funds from the Lockbox Project Accounts pursuant to subsection (d) of "Revenue Account" above or this subsection (d) of "Borrower Construction Account"; *provided further* if there are funds in the Revenue Account and the Borrower Construction Account on any Transfer Date immediately prior to any Debt Service Payment Date, then the Borrower may notify the Account Bank whether to apply subsection (d) of "Revenue Account" above or this subsection (d) of "Borrower Construction Account" first for the purposes of the automatic payments set forth therein three (3) Business Days prior to such Transfer Date and if no notice is given to the Account Bank, the Account Bank will apply subsection (d) of "Revenue Account."

(e) As necessary for the purposes of calculations to be made pursuant to subsection (d) above, the Account Bank and the Trustee will each deliver a notice to the other, three (3) Business Days prior to each Transfer Date, of the account balance in the Borrower Construction Account, the Indenture Construction Account, the Debt Service Fund and all applicable sub-accounts thereof.

(f) Except as otherwise required by any applicable Law, to the extent that on the Last Revenue Service Commencement Date there are any funds remaining on deposit in the Borrower Construction Account, including any sub-account thereof, such amounts will be deposited into the Revenue Account on such date pursuant to written notice and instructions from the Company to the Account Bank (with a copy to the Trustee).

Distribution Account

(a) Any amounts payable to the Distribution Account pursuant to clause twelfth under subsection (b) of "Revenue Account" above will be paid to the Distribution Account and will remain in the Distribution Account until and unless the Company certifies that the Restricted Payment Conditions (as described below) have been satisfied in the applicable Distribution Account Release Certificate.

(b) Funds on deposit in the Distribution Account may be paid to the Company on any Distribution Date on or after December 31, 2016; *provided* that (i) pursuant to a Distribution Account Release Certificate, a Company Representative has certified that all of the Restricted Payment Conditions were satisfied on the Calculation Date immediately preceding the requested Distribution Date (or if such Distribution Date is a Calculation Date, on such Calculation Date) and (ii) the Company delivers such Distribution Account Release Certificate (substantially in the form set forth in the Lockbox Account Agreement) signed by a Company Representative to the Account Bank (with a copy to the Trustee) within forty-five (45) days after the relevant Calculation Date and not later than the third Business Day prior to the requested Distribution Date; *provided further* that the amount of funds available to be paid to the Company on any Distribution Date will be equal to the amount of funds in the Distribution Account on the relevant Calculation Date.

(c) To the extent that any funds are on deposit in the Distribution Account, at the direction of the Company pursuant to a Lock-Up Funds Application Certificate (substantially in the form set forth in the Lockbox Account Agreement) delivered to the Account Bank (with a copy to the Trustee) not later than the third Business Day prior to the expected date of the applicable transfers (which can be, but is not required to be, a Transfer Date) as set forth in such certificate, the Account Bank will apply the amount on deposit in the Distribution Account to fund a shortfall in clauses first through seventh of subclause (b) of "Revenue Account" above, as specified in the Lock-Up Funds Application Certificate.

Management Services Fee Account

The Management Services Fee will be due and payable to the Management Services Fee Account from the amounts on deposit in the Borrower Construction Account on each anniversary of the Closing Date occurring prior to December 31, 2016, and on December 31, 2016, as set forth in the Management Services Fee Account Certificate delivered to the Account Bank (with a copy to the Trustee) by the Company. Amounts in the Management Services Fee Account will be retained in the Management Services Fee Account until the Company first certifies that the Restricted Payment Conditions (as described below) are satisfied, upon which all amounts in the Management Services Fee Account will be transferred by the Account Bank to the account specified in the applicable Management Services Fee Account Certificate.

Renewal Works Reserve Account

In the event that the O&M Contractor fails to provide a Renewal Works Letter of Credit in the amount required under the O&M Contract (the difference between the face amount of the Renewal Works Letter of Credit required pursuant to the O&M Contract and the face amount of the Renewal Works Letter of Credit being the "Renewal Works Deficiency"), the Renewal Works Reserve Account will be funded in accordance with the provisions of eighth under subclause (b) of "Revenue Account" above. In the event that the O&M Contractor provides the Renewal Works Letter of Credit that it otherwise failed to deliver, the amount of the Renewal Works Deficiency that resulted from its failure to deliver such Renewal Works Letter of Credit will be released to the Revenue Account by the Account Bank without further instruction. Amounts in the Renewal Works Reserve Account will be transferred by the Account Bank as directed in the applicable Renewal Works Reserve Account Withdrawal Certificate, on any Business Day specified in such Renewal Works Reserve Account Withdrawal Certificate, provided that the Account Bank has received (with a copy to the Trustee) such Renewal Works Reserve

Account Withdrawal Certificate signed by a Company Representative three Business Days in advance of the requested transfer date.

Operating Account

From the Closing Date until the Last Revenue Service Commencement Date, withdrawals from the Borrower Construction Account and the Indenture Construction Account to pay O&M Expenditures will be deposited into the Operating Account. On and after the first Revenue Service Commencement Date to occur with respect to the Project, Project Revenues received by the Company will be transferred into the Operating Account in accordance with the provisions of subclause (b) of "Revenue Account" above. Any withdrawals from the Operating Account will not require compliance with any conditions (except that amounts withdrawn will be applied by the Company to pay O&M Expenditures). Unless a Trustee Enforcement Notice and Direction has been delivered to the Account Bank (or to the applicable financial institution with whom a replacement Operating Account is established, as the case may be), the Company will have the right to make withdrawals from the Operating Account. Notwithstanding anything to the contrary in this paragraph, the Company may establish an operating account with another financial institution if (1) the replacement operating account contains a "deposit account" and, at the option of the Company, a "securities account" (both as defined in the UCC), (2) the Company executes a control agreement in the form attached to the Lockbox Account Agreement, or any other form of control agreement as agreed among the applicable financial institution, the Company and the Trustee and (3) the Company provides notice of the replacement operating account to the Account Bank (with a copy to the Trustee).

Borrower Change In Law Contingency Account

The Borrower Change In Law Contingency Account may be funded at any time with funds on deposit in the Borrower Construction Account or the Revenue Account in accordance with the Lockbox Account Agreement. Amounts deposited in the Borrower Change In Law Contingency Account may be used for any payments required by the Company in connection with Incurred Costs related to a Change in Law pursuant to the Concession Agreement. Pursuant to written instructions signed by a Company Representative delivered to the Account Bank (with a copy to the Trustee) not later than the third Business Day prior to the expected date of applicable withdrawals and transfers, the Company shall have the right to make withdrawals from the Borrower Change In Law Contingency Account for such purposes or to instruct the Account Bank to transfer any moneys deposited in the Borrower Change In Law Contingency Account to the Borrower Construction Account or the Revenue Account.

Funds as Lockbox Account Collateral

Any deposit made into the Lockbox Project Accounts (except through clerical or other manifest error or in a manner that is otherwise inconsistent with the Lockbox Account Agreement) will be irrevocable and all cash, cash equivalents, instruments, investments and other securities on deposit in the Project Accounts will be subject to the lien of the Security Agreement and will be held by the Lockbox Account Bank as collateral for the benefit of the Secured Parties as provided in the Lockbox Account Agreement.

Investment

All moneys held as part of any Lockbox Project Account will be deposited or invested and reinvested by the Account Bank, at the direction of the Company, in Account Agreement Permitted Investments (at the risk and expense of the Company) and in compliance with the Code and any applicable State Tax Laws. The Account Bank will not be required to take any action with respect to investing the funds in any Lockbox Project Account in the absence of written instructions by the Company or the Trustee (to the extent provided in accordance with the terms of the Lockbox Account Agreement). The Account Bank will not be liable for any loss or Tax resulting from any Permitted Investment or the sale or redemption thereof made in accordance with the terms of the Lockbox Account Agreement. Earnings and losses from the investment of moneys held in any Lockbox Project Account will be charged against the Account in which they were realized. The Account Bank will sell and reduce to cash a sufficient amount of the investments held in any Lockbox Project Account whenever the cash balance is insufficient to make any required payment. If and when cash is required for disbursement in accordance with the Lockbox Account Agreement, the Account Bank will be authorized, without instructions from the Company, to the extent necessary to make payments required pursuant to the Lockbox Account Agreement, in the event the Company fails to direct the

Account Bank to do so in a timely manner, to cause Account Agreement Permitted Investments to be sold or otherwise liquidated into cash in such manner as the Account Bank deems reasonable. All funds in the Lockbox Project Accounts and all Account Agreement Permitted Investments made in respect thereof will be held by the Account Bank and the interests of the Company therein will constitute part of the security subject to the pledge and security interest created by the Security Documents.

Withdrawal and Application of Funds; Priority of Transfers from Lockbox Project Accounts; Event of Default

(a) The Account Bank will comply with any certificate of the Company delivered to it pursuant to the Lockbox Account Agreement or the Indenture.

(b) Notwithstanding anything to the contrary contained in the Lockbox Account Agreement, upon receipt of a Trustee Enforcement Notice and Direction, the Account Bank will follow the instructions of the Trustee in accordance with the subsection entitled "Enforcement of Remedies" below.

(c) The Account Bank will not be obligated to monitor or verify (i) the accuracy of any certificate delivered to it pursuant to the Lockbox Account Agreement or other written instructions provided to the Account Bank for the transfer or deposit of funds with respect to any Lockbox Project Account, or (ii) the use of amounts withdrawn from the Lockbox Project Accounts pursuant to written instructions given by the Company.

Termination of Project Accounts

Upon the satisfaction in full of all principal and interest owing with respect to the Bond Obligations as confirmed in writing by the Trustee (which confirmation the Trustee agrees to provide promptly after receiving a certification from the Company), the Lockbox Account Agreement will terminate, and the Account Bank will, within thirty (30) days of receipt of a request from the Company and at the expense of the Company, close the Lockbox Project Accounts and/or liquidate any investments credited thereto and/or transfer the funds deposited therein or credited thereto, as directed by the Company. Thereafter, the Account Bank will be released from any further obligation to (a) comply with entitlement orders originated by the Trustee to the extent that any of the Lockbox Project Accounts is a "securities account" under the applicable provision of the UCC or (b) comply with instructions originated by the Trustee to the extent that any of the Lockbox Project Accounts is a "deposit account" under the applicable provision of the UCC or (c) comply with any obligation under any Financing Document except as specifically provided therein. Nothing contained in this paragraph will be construed to modify or otherwise affect the Account Bank's security interest in and lien on the Lockbox Project Accounts and the funds therein prior to such transfer.

Securities Intermediary

(a) The Securities Accounts as set forth in the Lockbox Account Agreement will be established and maintained as securities accounts with a securities intermediary. Each of the parties to the Lockbox Account Agreement, including The Bank of New York Mellon Trust Company N.A., have agreed that The Bank of New York Mellon Trust Company N.A. (or any successor thereto) will act as the securities intermediary (in such capacity, the "Securities Intermediary") under and for the purposes of the Lockbox Account Agreement and for so long as The Bank of New York Mellon Trust Company N.A. (or any successor thereto) is the Account Bank.

(b) The Securities Intermediary agrees with the parties to the Lockbox Agreement that each of the Securities Accounts will be an account to which financial assets may be credited and to undertake to treat the Account Bank as entitled to exercise the rights that comprise such financial assets. The Securities Intermediary agrees with the parties to the Lockbox Agreement that each item of property credited to each Securities Account will be treated as a financial asset. Each of the Account Bank and the Securities Intermediary represents and warrants that it has not entered into any agreement or taken any other action that gives any Person other than the Account Bank control over any of the Securities Accounts or that is otherwise inconsistent with the Lockbox Account Agreement. The Company, the Issuer, the Trustee, the Account Bank and the Securities Intermediary agrees that it will not become a party to any agreement or take any action that gives any Person other than the Account Bank

control over any of the Securities Accounts or that is otherwise inconsistent with the Lockbox Account Agreement. The Securities Intermediary agrees that any financial assets credited to such Securities Accounts, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, will not be subject to any security interest, lien, encumbrance or right of setoff in favor of the Securities Intermediary or anyone claiming through the Securities Intermediary (other than the Account Bank).

(c) The Account Bank, the Company and the Trustee intend that the Account Bank be the entitlement holder with respect to the Securities Accounts. In any event, the Securities Intermediary will agree that it will comply with entitlement orders with respect to the Securities Accounts originated by the Account Bank without further consent by the Company or any other Person. The Securities Intermediary will covenant that it will not agree with any person other than the Account Bank to comply with entitlement orders with respect to the Securities Accounts originated by any Person or entity other than the Account Bank.

(d) The Securities Intermediary will not change the name or account number of any Securities Account without the prior written consent of the Account Bank and at least five (5) Business Days' prior notice to the Trustee and the Company, and will not change the entitlement holder. The Securities Intermediary will at all times act as a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) in maintaining the Securities Accounts and will credit to each Securities Account each financial asset to be held in or credited to each Securities Account pursuant to the Lockbox Account Agreement. To the extent, if any, that the Account Bank is deemed to hold directly, as opposed to having a security entitlement in, any financial asset held by the Securities Intermediary for the Account Bank, the Securities Intermediary will agree that it is holding such financial asset as the agent of the Account Bank and will expressly acknowledge and agree that it has received notification of the Secured Parties' security interest in such financial asset and that it is holding possession of such financial asset for the benefit of the Secured Parties.

(e) Each Securities Account will remain at all times with a "securities intermediary" (within the meaning of Section 8-102(a)(14) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) that is a bank organized under the laws of the United States of America or any state thereof that has offices in the State of New York with unsecured long-term debt which will be rated "A" or better by S&P or "A2" or better by Moody's and that has a total capital stock and unimpaired surplus of not less than $500,000,000. The Securities Intermediary will give notice to the Account Bank, the Trustee and the Company of the location of the Securities Accounts and of any change thereof prior to the use or change thereof.

(f) Any income received by the Account Bank with respect to the balance from time to time on deposit in each Securities Account, including any interest or capital gains on investments in overnight securities made with amounts on deposit in each Securities Account, will be credited to the applicable Securities Account. All right, title and interest in and to the cash amounts on deposit from time to time in each Securities Account together with any investments in overnight securities made from time to time will constitute part of the Lockbox Account Collateral for the Bond Obligations pledged to the Trustee pursuant to the Security Agreement and will be held for the benefit of the Trustee, the other Secured Parties and the Company and will not constitute payment of the Bond Obligations (or any other obligations to which such funds are provided in the Lockbox Account Agreement to be applied) until applied thereto as provided in the Lockbox Account Agreement.

(g) In the event that, notwithstanding the last sentence of subsection (b) above, the Securities Intermediary has or subsequently obtains by agreement, operation of law or otherwise a security interest in any of the Securities Accounts, or any financial asset credited thereto, or any "securities entitlement" (as defined in Section 8-102(a)(17) of the UCC or, with respect to book-entry securities, in the applicable Federal Book-Entry Regulations) with respect thereto, the Securities Intermediary hereby agrees that such security interest will be subordinate to the security interest of the Account Bank.

(h) The "securities intermediary's jurisdiction" of the Securities Intermediary for purposes of the UCC (or the Uniform Commercial Code of any other jurisdiction to the extent applicable) will be the State of New York.

(i) Terms used in this Section that are defined in the UCC will have the meanings set forth in the UCC. Without limiting the foregoing, the term "securities intermediary" will, with respect to book-entry securities, have the meaning given to it under 31 C.F.R. Part 357 (sale and issue of marketable book-entry Treasury bills, notes and bonds); 12 C.F.R. Part 615 (book-entry securities of the Farm Credit Administration and related conditions); 12 C.F.R. 987 (book-entry securities of the Financial Federal Housing Board), 12 C.F.R. Part 1511 (book-entry securities of the Resolution Funding Corporation); 24 C.F.R. Part 81 (book-entry securities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation); 31 C.F.R. Part 354 (book-entry securities of the Student Loan Marketing Association); 18 C.F.R. Part 1314 (book-entry securities of Tennessee Valley Authority); and 24 C.F.R. Part 350 (book-entry securities of Government National Mortgage Association).

(j) To the extent that the Lockbox Project Accounts are not considered "securities accounts" (within the meaning of Section 8-501(a) of the UCC), the Lockbox Project Accounts will be deemed to be "deposit accounts" (as defined in Section 9-102(a)(29) of the UCC), which the Account Bank will maintain with the Securities Intermediary acting not as a securities intermediary but as a "bank" (within the meaning of Section 9-102(a)(8) of the UCC). The Securities Intermediary will agree to comply with any and all instructions originated by the Account Bank directing disposition of funds in the Lockbox Project Accounts without any further consent of the Company.

Termination Proceeds

The Company will deposit in the Revenue Account proceeds of any Applicable Termination Amount, including any TABOR Portion or Additional TABOR Portion, received by the Company under the Concession Agreement in respect of a termination of the Concession Agreement, unless the Bonds have been accelerated in which case, such proceeds will be applied in accordance with Section 7.3 of the Indenture. In connection with redemption of the Bonds as set forth in the Indenture, the Company will instruct the Account Bank to deliver any lump sums in respect of such Applicable Termination Amount to the Trustee for application to the applicable sub-account of the Debt Service Fund.

Lockbox Account Collateral and Remedies

Administration of Lockbox Account Collateral

The Lockbox Account Collateral will be held by the Account Bank for the benefit of the Company and the Trustee pursuant to the terms of the Lockbox Account Agreement and will be administered by the Account Bank in the manner contemplated thereby.

Notice of Event of Default

The Account Bank, unless an Account Bank Representative has actual knowledge thereof, will not be deemed to have any knowledge of any Event of Default under the Financing Documents unless and until it receives written notice from the Company, the Trustee or any other Secured Party describing such Event of Default in reasonable detail. If the Account Bank receives such notices from a Person other than the Trustee, the Account Bank will deliver a copy thereof to the Trustee.

Enforcement of Remedies

Upon receipt by the Trustee of enforcement directions pursuant to the Indenture and the occurrence and during the continuance of an Event of Default under the Financing Documents, the Trustee may notify the Account Bank in writing (with a copy thereof delivered to the Company), of such receipt and Event of Default (each notice a "Trustee Enforcement Notice and Direction"), whereupon, to the extent provided in such Trustee Enforcement Notice and Direction (as the same may be supplemented and modified) (i) the Company will not have any further right to disbursements from the Project Accounts, and (ii) the Trustee may (A) direct the Account Bank to liquidate and transfer any amounts then invested in Account Agreement Permitted Investments to the Lockbox Project Accounts or the Debt Service Fund or reinvest such amounts in other Account Agreement Permitted Investments as the Trustee may reasonably determine is necessary to perfect or protect any security interest granted or purported to

be granted hereby or to enable the Account Bank, as agent for the Secured Parties, or the Trustee to exercise and enforce the Secured Parties' rights and remedies under the Lockbox Account Agreement or the other Financing Documents with respect to any Lockbox Account Collateral, (B) exercise any and all rights and remedies available to it under the Lockbox Account Agreement or the other Financing Documents and/or as a secured party under the UCC, and (C) demand, collect, take possession of, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon the Lockbox Account Collateral (or any portion thereof) as the Trustee may determine in its sole discretion.

Waiver by the Company

The Company will expressly waive, to the fullest extent permitted by law, presentment, demand, protest or any notice of any kind (except to the extent expressly provided for in the Lockbox Account Agreement) in connection with the Lockbox Account Agreement or the Lockbox Account Collateral. The Company will acknowledge and agree that ten (10) days' prior written notice of the time and place of any public sale of the Lockbox Account Collateral or any other intended disposition thereof will be reasonable and sufficient notice to the Company within the meaning of the UCC.

Remedies of the Secured Parties

Unless otherwise consented to in writing by the Trustee (acting in accordance with the terms of the Indenture), no Secured Party, individually or together with any other Secured Parties, will have the right, nor will it, exercise or enforce any of the rights, powers or remedies which the Account Bank is authorized to exercise or enforce under the Lockbox Account Agreement.

Miscellaneous Provisions

Amendments; Waivers

(a) Any term, covenant, agreement or condition of the Lockbox Account Agreement or any of the other Security Documents may be amended or waived only by an instrument in writing signed by each of the Account Bank (acting upon the instruction of the Trustee, acting in accordance with the terms of the Indenture), the Company and the Trustee (with a copy to the Issuer), and, with respect to any amendment or waiver of the Lockbox Account Agreement which would have a material adverse effect on the Issuer or the Owners of the Bonds, with the consent of the Issuer; provided that:

(i) only the Trustee may waive any rights of the Trustee under any provision of the Lockbox Account Agreement; no consent to any departure by the Company from the Lockbox Account Agreement (or the Security Documents) will be effective unless in writing signed by the applicable parties specified in the Lockbox Account Agreement, and each such waiver or consent will be effective only in the specific instance and for the specific purpose for which given; and

(ii) the consent of the Securities Intermediary will be required for any amendment to the "Securities Intermediary" section of the Lockbox Account Agreement or any other amendment that would modify the rights or obligations of the Securities Intermediary.

(b) The waiver (whether express or implied) by the Account Bank of any breach of the terms or conditions of the Lockbox Account Agreement, and the consent (whether express or implied) of any Secured Party will not prejudice any remedy of the Account Bank or any Secured Party in respect of any continuing or other breach of the terms and conditions of the Lockbox Account Agreement, and will not be construed as a bar to any right or remedy which the Account Bank or any other Secured Party would otherwise have on any future occasion under the Lockbox Account Agreement.

(c) No failure to exercise nor any delay in exercising, on the part of the Account Bank or any other Secured Party, of any right, power or privilege under the Lockbox Account Agreement will operate as a waiver thereof; further, no single or partial exercise of any right, power or privilege under the Lockbox Account Agreement

will preclude any other or further exercise thereof or the exercise of any other right, power or privilege available to it. All remedies under the Lockbox Account Agreement and under the other Financing Documents are cumulative and are not exclusive of any other remedies that may be available to the Account Bank, whether at law, in equity or otherwise.

Governing Law

The Lockbox Account Agreement will be governed by and construed in accordance with the substantive laws of the State of New York.

Account Bank's Rights

(a) If at any time the Account Bank is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Account Collateral (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of such property), the Account Bank is authorized to comply therewith in any manner it or legal counsel of its own choosing reasonably deems appropriate; and if the Account Bank complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, the Account Bank will not be liable to any of the parties hereto or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

(b) In the event of any dispute between or conflicting claims by or among the Company, the Secured Parties and/or any other person or entity with respect to any property being held by the Account Bank in connection with the Lockbox Account Agreement or the other Security Documents, the Account Bank will be entitled, in its sole discretion, to refuse to comply with any and all claims, demands or instructions with respect to such property so long as such dispute or conflict will continue, and the Account Bank will not be or become liable in any way to the Company, the Trustee or any other party for failure or refusal to comply with such conflicting claims, demands or instructions. The Account Bank will be entitled to refuse to act until, in its sole discretion, either (i) such conflicting or adverse claims or demands will have been determined by a final order, judgment or decree of a court of competent jurisdiction, which order, judgment or decree is not subject to appeal, or settled by agreement between the conflicting parties as evidenced in a writing reasonably satisfactory to the Account Bank or (ii) the Account Bank will have received security or an indemnity reasonably satisfactory to it sufficient to hold it harmless from and against any and all losses which it may incur by reason of so acting. Any court order, judgment or decree will be accompanied by a legal opinion by counsel for the presenting party, reasonably satisfactory to the Account Bank, to the effect that said order, judgment or decree represents a final adjudication of the rights of the parties by a court of competent jurisdiction, and that the time for appeal from such order, judgment or decree has expired without an appeal having been perfected. The Account Bank will act on such court order and legal opinions without further question.

(c) To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. When any account or sub-account is opened, the Account Bank will be entitled to such information that will allow it to identify relevant parties.

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APPENDIX I

SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a summary of selected provisions of the Loan Agreement and is not a full statement of the terms of the Loan Agreement. Accordingly, the following summary is qualified in its entirety by reference to such agreement and is subject to the full text of such agreement.

Company to Provide Funds

In the event that proceeds derived from the Series 2010 Loan, or any other available (or to be available) funds and other funds pursuant to the Concession Agreement are not sufficient to finance the Project Costs and the Cost of Issuance of the Series 2010 Bonds, the Company will not be entitled to any reimbursement from the Issuer or the Trustee for the payment of such costs nor will the Company be entitled to any abatement, diminution or postponement of its payments under the Loan Agreement.

Compliance with Indenture

In accordance with any applicable provisions of the Indenture, at the request of the Company, the Issuer will take any action directed by the Company to the extent required under, or permitted by, the provisions of the Indenture or the Loan Agreement. The Company will take all action required to be taken by the Company in the Indenture as if the Company were a party to the Indenture.

Amounts Payable

The Company will repay the Series 2010 Loan, as follows: on or before any Interest Payment Date for the Series 2010 Bonds or any other date that any payment of interest, principal or Redemption Price on the Series 2010 Bonds is required to be made in respect of the Series 2010 Bonds pursuant to the Indenture (which payments for principal and interest will be in the amounts and at the rates set forth on the debt service schedule attached to the Loan Agreement and as amended from time to time pursuant to the Indenture), until the payment of interest, principal or Redemption Price on the Series 2010 Bonds will have been fully paid or provision for the payment thereof will have been made in accordance with the Indenture, in immediately available funds, a sum which, together with any other moneys available for such payment in the applicable Account of the Debt Service Fund, will enable the Trustee to pay to the Owners of the Series 2010 Bonds the amount due and payable on such date as interest, principal or Redemption Price on the Series 2010 Bonds as provided in the Indenture.

Obligations of Company Unconditional

The obligations of the Company to make the payments required in the subsection "Amounts Payable" above and to perform and observe all other agreements and covenants contained in the Loan Agreement will be absolute and unconditional.

Prepayment and Redemption

The Company will have the option to prepay its obligations under the Loan Agreement at the times and in the amounts as necessary to cause the Issuer to redeem the Series 2010 Bonds in accordance with the terms of the Indenture and the Series 2010 Bonds. The Issuer, at the request of the Company, if applicable, will take all steps (other than the payment of funds necessary to effect such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the Outstanding Series 2010 Bonds, as may be specified by the Company and required by the Indenture, on the date established for such redemption.

Covenants of the Company

Covenants made by the Company under the Loan Agreement include, but are not limited to, the following:

Delivery of Additional TABOR Portion Notice

The Company will deliver to the District and the Trustee an Additional TABOR Portion Notice as follows:

(a) prior to the effective date, if applicable, of an amendment to the State Constitution known as "Amendment 61" that will be voted on by the people of Colorado on November 2, 2010; or

(b) prior to the effective date of any other amendment to the State Constitution or any legislation that would, in the reasonable determination of either (i) the Company or (ii) the Trustee, at the written direction of the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds provided in accordance with Section 10.4 of the Indenture, adversely affect the Issuer's ability or obligation to pay the Additional TABOR Portion (in the case of (b)(ii), such determination to be evidenced by a written notice filed with the Company and the Additional TABOR Portion Notice to be delivered promptly upon the receipt thereof by the Company).

Suspension of the Project

The Company will not suspend or abandon the Project, which suspension or abandonment will be deemed to have occurred if the Company, without reasonable cause, (a) expressly declares in writing that it will not resume Work on the Project or (b) fails to pursue the construction of the Project or operate the Project for ninety (90) days.

Maintenance of Existence

Throughout the term of the Loan Agreement, the Company will maintain (a) its existence as a limited liability company, (b) its qualification to do business in the State and in every jurisdiction where such qualification is required by applicable Law, and (c) all material rights, franchises, privileges and consents necessary for the maintenance of its existence and the operation of the Project.

Sale or Encumbrance of Interests under Concession Agreement

The Company will not sell or otherwise dispose of all or any part of its interests under the Concession Agreement unless such sale or disposition is not expected to result in a Material Adverse Effect and is not materially adverse to the rights of the Secured Parties, except in respect of any Permitted Security Interest or as contemplated by the Security Documents and otherwise in accordance with any applicable provisions of the Loan Agreement and the Concession Agreement. The Company will not create, incur, assume, permit or suffer to exist any Security Interest upon or with respect to its interests under the Concession Agreement, other than Permitted Security Interests.

Operation and Maintenance of Project

The Company will operate and maintain the Project (or cause the same to be operated and maintained) in accordance with the Concession Agreement and make all necessary repairs, renewals and replacements, in each case, in accordance in all material respects with the Concession Agreement and in compliance in all material respects with applicable Laws and Governmental Approvals material to the conduct of its business and the terms of the Insurance required under the Loan Agreement, except to the extent that the failure to do any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

Insurance

The Company will maintain or will require its contractors (including the Design Build Contractor) to maintain Insurance that is required to be obtained by the Company and its contractors to satisfy the requirements of the Concession Agreement. Such policies will (to the extent permitted by the Concession Agreement) name the Trustee on behalf of the Secured Parties, as additional payee as their interests may appear (pending any existing contractual overrides). The Company will notify the Trustee within thirty (30) days of cancellation (ten (10) days for non-payment of premium) of any Insurance required to be obtained by the Company. The Company will not take, or fail to take, any action, which would result in any Insurance obtained by the Company lapsing, becoming

cancelled or otherwise being rendered void, voidable or ineffective and will not cancel or vary any policy of Insurance required to be maintained by it unless the Concession Agreement requires otherwise.

Accounts and Reporting

(a) The Company will keep proper books of records and accounts in which complete and correct entries will be made of its transactions in accordance with GAAP. The Project Accounts, such books and all other records and papers relating to the Project, will, to the extent permitted by Law, at reasonable times, be subject to the inspection of the Trustee or its representative upon reasonable notice. The Company will employ and maintain independent auditors of nationally recognized standing to audit its annual financial statements. Concurrent with such appointment, the Company will authorize such accountants to communicate directly with the Trustee and/or the Account Bank and to respond to queries of the Trustee or the Account Bank regarding the Company's accounts and operations by executing and delivering to such accountants (with a copy to the Trustee and the Account Bank) an irrevocable authorization substantially in the form set forth in the Loan Agreement (at the Trustee's and/or the Account Bank's direction, as applicable).

(b) The Company will deliver the following information to the Issuer and the Trustee:

(i) audited financial statements for the Company within one hundred twenty (120) days after the end of each Fiscal Year of the Company;

(ii) unaudited financial statements for the Company within forty-five (45) days after the end of each fiscal quarter of the Company;

(iii) simultaneously with the delivery of the financial statements in subclauses (a) and (b) above, a certificate of the Company that states that no Event of Default has occurred and is continuing;

(iv) until the Revenue Service Commencement Date with respect to the East Corridor Service, monthly construction progress reports delivered under the Concession Agreement;

(v) details of the filing of any actual litigation, suit or action, or the delivery to the Company of any written claim against the Company or the Project in excess of $10,000,000 or in any lesser amount which could reasonably be expected to have a Material Adverse Effect;

(vi) details of any Potential Event of Default or Event of Default;

(vii) details of any penalties or damages due from the Company under the Material Project Contracts;

(viii) copies of all notices of default or termination delivered to the Company with respect to any Material Project Contract;

(ix) notice of any material insurance claims in excess of $5,000,000;

(x) notice of the occurrence of a Force Majeure Event, Relief Event, Concessionaire Termination Event, RTD Termination Event or FM Termination Event under any Material Project Contract;

(xi) notification of any new or historical Release of Hazardous Materials (other than previously disclosed in writing by the Company) that could reasonably be expected to cause or does cause a Material Adverse Effect;

(xii) notification if the Availability Ratio of any Commuter Rail Service is less than 90% in six or more months of any eight-month period;

(xiii) a copy of any (A) written notice to the Company setting forth that any material Governmental Approval will not be granted or renewed, or will not be granted or renewed in time to allow continued operation of the Project in compliance with all material Governmental Rules, or will be granted or renewed on terms materially more burdensome than proposed, or will be terminated, revoked or suspended and (B) notification of any casualty, damage or loss to the Project, whether or not insured, in excess of $5,000,000 (or the equivalent thereof in other currencies) for any one casualty or loss or in the aggregate in any calendar year;

(xiv) notice of any proposed condemnation, eminent domain or similar action with respect to all or a substantial portion of the property of the Eagle P3 Project by the District or any other Governmental Authority; and

(xv) a copy of any notice of any Appropriation Deficiency.

(c) The Company will deliver the following information to the Dissemination Agent for delivery to the Municipal Securities Rulemaking Board (the "MSRB") via its Electronic Municipal Market Access system (or such other system as shall be established by the MSRB):

(i) On or before the 15th day following the end of each calendar month during the Design Build Period, a monthly construction report containing the following information: (A) executive summary; (B) report on schedule variances; (C) occurrence of any Relief Events, Force Majeure Events and Changes; (D) cash flow payment curve; (E) list of activities or milestones expected to be completed by the District or a Project Third Party during the next month; (F) design, construction and manufacturing critical issues, including without limitation draws on letters of credit provided by the Design Build Contractor during the Design Build Period; and (G) environmental mitigation status including compliance/non-compliance reports, completed mitigation efforts, public complaints and non-compliance issues raised by regulatory/oversight agencies, in each case to the extent such information is included in the reports required to be delivered by the Company to the District under the Concession Agreement; and

(ii) Not later than 90 days after the end of each fiscal quarter of the Company occurring after the Revenue Service Commencement Date with respect to the East Corridor Service, a report showing (A) the operating data for the Project for the previous quarter and for the year to date, including total Project Revenues and total O&M Expenditures incurred and (B) the variances for such periods between the actual Project Revenues and the budgeted Project Revenues and the actual O&M Expenditures incurred and the budgeted O&M Expenditures, together with a brief narrative explanation of the reasons for any such variance of 10% or more.

Project Accounts

The Company will establish and maintain each Project Account and other accounts required from time to time by the Financing Documents and will not maintain or permit to be maintained any accounts other than as permitted and contemplated in the Lockbox Account Agreement, the Indenture or the other Financing Documents.

Compliance with Law

The Company will comply in all material respects with all applicable Laws, as and when required, for which failure to comply would reasonably be expected to have a Material Adverse Effect.

Use of Proceeds; Tax Covenant

Neither the Issuer nor the Company will cause any proceeds of the Bonds to be expended, except pursuant to the Indenture and the Loan Agreement.

The Company will covenant for the benefit of the Issuer and the Owners of the Series 2010 Bonds that it will not take any action or omit to take any action with respect to the Series 2010 Bonds, the proceeds thereof, any

other funds of the Company or any of the facilities financed with the proceeds of the Series 2010 Bonds if such action or omission (a) would cause the interest on the Series 2010 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, (b) would cause interest on the Series 2010 Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Code, or (c) would cause interest on the Series 2010 Bonds to lose its exclusion from State taxable income or State alternative minimum taxable income under present State law. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Series 2010 Bonds until the date on which all obligations of the Company in fulfilling the above covenant under the Code and State law have been met.

Further Assurances and Corrective Instruments

The Issuer and the Company agree to execute, acknowledge and deliver any supplements and further instruments as may reasonably be required for carrying out the expressed intentions of the Loan Agreement and the Lockbox Account Agreement and as may be necessary or desirable for assuring, conveying, granting, assigning, securing and confirming the Security Interests (whether now existing or hereafter arising) granted by or on behalf of the Company to the Trustee for the benefit of the Secured Parties, pursuant to the Security Documents, or intended so to be granted pursuant to the Security Documents, or which the Company may become bound to grant, and the subject of each such Security Interest is and will be free and clear of any other Security Interest thereon or with respect thereto prior to, or of equal rank with the Security Interests created by the Security Documents, other than liens entitled to priority as a matter of Law or as permitted by such documents, any other Financing Document or the Loan Agreement, and all limited liability company action on the part of the Company to that end will be duly and validly taken at such times. The Company will, at all times, to the extent permitted by Law, defend, preserve and protect the Security Interests granted pursuant to the Security Documents and all the rights of the Trustee for the benefit of the Secured Parties under the Security Documents against all claims and demands of all Persons whomsoever, except in each case for Permitted Security Interests.

Transaction Documents

The Company will (a) perform and observe all of its covenants and its other obligations contained in each Transaction Document to which it is a party and (b) enforce against any other party thereto each covenant or obligation of such party in each Transaction Document to which it is a party or an intended beneficiary in accordance with its terms, except, in the case of clause (a) and clause (b) above, to the extent that the failure to do any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

Recording and Filing; Other Instruments

The Company will file and refile and record and re-record all instruments required to be filed and re-filed and recorded or re-recorded and will continue the Security Interests of such instruments for so long as any of the Series 2010 Bonds will be Outstanding. The Issuer will execute and deliver all instruments and will furnish all information and evidence deemed necessary or advisable in order to enable the Company to fulfill its obligations as provided in the Loan Agreement and the Security Documents.

Approvals; Governmental Authorizations

At all times, the Company will obtain on a timely basis and thereafter maintain in full force and effect all Governmental Approvals necessary (a) for the construction, use, operation and maintenance of the Project and (b) to comply with its obligations under the Transaction Documents, except in either case where the failure to obtain or maintain any such Governmental Approval could not reasonably be expected to have a Material Adverse Effect.

Taxes

The Company will timely pay and discharge all Taxes and other assessments and governmental charges or levies imposed upon the Company or the Project prior to the date on which penalties, fines or interest attach thereto, provided that the Company may permit any such Tax, assessment, charge or levy to remain unpaid if it is being

contested in good faith and adequate reserves have been provided and are maintained in accordance with GAAP and except where the failure to pay and discharge could not reasonably be expected to have a Material Adverse Effect.

Business Activities

The Company will not directly engage at any time in any business other than the development, construction and operation of the Project and business that is ancillary and related thereto.

Limitation on Fundamental Changes; Sale of Assets, Etc.

The Company will not:

(a) merge, liquidate or dissolve or enter into any consolidation, amalgamation, demerger, reconstruction, partnership, profit-sharing or any analogous arrangement or wind up, liquidate or dissolve or take any action that would result in the liquidation or dissolution of the Company; or

(b) sell, assign or dispose of or direct the Trustee or the Account Bank, as applicable, to sell, assign or dispose of, any material assets of the Project in excess of $5,000,000 per year except

(1) sales or other dispositions in the ordinary course of business or contemplated by or permitted under the Concession Agreement and the other Material Project Contracts;

(2) sales or other dispositions of damaged, obsolete, worn out or defective equipment in the ordinary course of business;

(3) sales or other dispositions of surplus property not required for the construction or operation of the Project in the ordinary course of business;

(4) sales, transfers or other dispositions of Permitted Investments and solely with respect to the Lockbox Account Collateral, sales, transfers or other dispositions of Account Agreement Permitted Investments; and

(5) sales that would constitute Permitted Indebtedness.

Arm's-Length Transactions

The Company will not enter into any material transaction or agreement with any Affiliate unless such transaction or agreement is entered into on fair and commercially reasonable terms no less favorable to the Company than the Company could reasonably obtain in a comparable arm's-length transaction with a Person that is not an Affiliate.

Additional Parity Bonds; Limitation on Indebtedness

After the delivery of the Loan Agreement, upon request by the Company the Issuer may issue the Additional Parity Bonds in accordance with the Indenture.

The Company will not create, incur or assume any Indebtedness other than Permitted Indebtedness.

Permitted Investments

The Company will not make or direct the Trustee to make any investments other than Permitted Investments and solely with respect to the Lockbox Account Collateral, will not make or direct the Account Bank to make any investment other than Account Agreement Permitted Investments.

Reporting on Variances in O&M Expenditures

Not later than 90 days after the end of each fiscal quarter of the Company occurring after the Revenue Service Commencement Date with respect to the East Corridor Service, the Company will deliver to the Trustee and the Issuer a report showing (a) the operating data for the Project for the previous quarter and for the year to date, including total Project Revenues and total O&M Expenditures incurred and (b) the variances for such periods between the actual Project Revenues and the budgeted Project Revenues and the actual O&M Expenditures incurred and the budgeted O&M Expenditures, together with a brief narrative explanation of the reasons for any such variance of 10% or more.

Limitation on Partial Termination Payments under the Concession Agreement.

Without the consent of the Trustee given solely at the written direction of 100% of the Owners of the Series 2010 Bonds, provided in accordance with Section 10.4 of the Indenture, the Company will not give its consent to the District regarding the payment of only a portion of any outstanding Applicable Termination Amount owed to the Company in connection with a refinancing of the TABOR Portion and Additional TABOR Portion pursuant to Section 42.4(f) of the Concession Agreement. For the avoidance of doubt, nothing in the preceding sentence requires the Trustee's consent for the payment of the whole amount of any outstanding Applicable Termination Amount.

***Negative* Pledge**

The Company will not create, incur, assume or permit to exist any Security Interest on any property or asset, including its revenues (including accounts receivable) or rights in respect of any thereof, now owned or hereafter acquired by it, except Permitted Security Interests.

Access to the Project

The Company will give the Trustee and its respective consultants and representatives access to the Project site, at the sole cost of such Persons, at any reasonable time and as often as may reasonably be requested, and, so long as no Potential Event of Default or Event of Default has occurred and is continuing, upon reasonable prior notice to the Company, in each case during official business hours and in a manner that cannot reasonably be expected materially to interfere with or disrupt the performance by the Company or any other party of its obligations with respect to the construction and operation of the Project, and permit the Trustee and its respective consultants and representatives to discuss the Project and the business, accounts, operations, properties and financial and other conditions of the Company with officers and employees of the Company to witness (but not cause) the performance and other tests conducted pursuant to any Material Project Contract, subject to all applicable confidentiality undertakings. The Company will offer all reasonable assistance to such Persons in connection with any such visit. Upon the occurrence and during the continuance of a Potential Event of Default or an Event of Default, if the Trustee requests that any of its consultants or representatives be permitted to make such visit, the reasonable fees and expenses of the Trustee and its respective consultants and representatives in connection with such visit will be paid at the Company's sole expense.

Material Project Contracts

The Company will not amend or waive in any material respect or terminate any Material Project Contract, including the Trustee's Instructions (Attachment 25) delivered by the District pursuant to the Concession Agreement, or enter into any other material agreement without the prior written consent of the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds provided in accordance with Section 10.4 of the Indenture; provided that (a) the Company and the O&M Contractor may enter into change orders under the O&M Contract required for compliance with the Concession Agreement, (b) the Company and the Design Build Contractor may enter into change orders under the Design Build Contract and the Rolling Stock Supply Contract required for compliance with the Concession Agreement, (c) the Company, the Design Build Contractor and the O&M Contractor may enter into change orders under the Design Build Contract, the Rolling Stock Supply Contract and the O&M Contract if such change will not require the payment by the Company in any year to exceed in the aggregate an amount equal to $10,000,000 without the approval of the Technical Advisor and over $10,000,000 with

the written approval of the Technical Advisor and (d) the Company may amend, waive or terminate any Material Project Contract if such amendment or termination could not reasonably be expected to have a Material Adverse Effect, and if such Material Project Contract is being terminated and if such Material Project Contract is the Design Build Contract, the Design Build Contract (i) is replaced by a replacement agreement between the Company and another counterparty (taking into consideration any Design Build Guarantor) of similar or greater creditworthiness and experience as the counterparty being so replaced and (ii) provides projected economic benefits for the Project that are, in light of the material risks and liabilities of such replacement contract, taken as a whole, at least as favorable as the benefits under the existing contract, in light of the material risks and liabilities of such existing contract.

Events of Default Defined

The following events will constitute "Events of Default" under the Loan Agreement:

(a) Failure by the Company to pay any amount required to be paid under the Loan Agreement as described in "Amounts Payable" above;

(b) Failure by the Company to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Loan Agreement, the Lockbox Account Agreement or any other Financing Document, other than as provided in (a) above, and such non-compliance will remain unremedied for a period of sixty (60) days after the earlier of (i) written notice specifying such failure will have been given to the Trustee by the Company or (ii) written notice specifying such failure and requesting that it be remedied will have been given to the Company by the Trustee, or such longer period as is reasonably necessary under the circumstances to remedy such failure, such extension not to exceed one hundred eighty (180) days without prior written approval by the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds delivered by the Trustee pursuant to Section 10.4 of the Indenture;

(c) The occurrence of a Bankruptcy Event with respect to the Company;

(d) Any of the representations, warranties or certifications of the Company made in or delivered pursuant to any Financing Document, including the Loan Agreement, will prove to have been incorrect in any material respect when made and a Material Adverse Effect could reasonably be expected to result therefrom, unless such misrepresentation is capable of being cured and is cured within thirty (30) days after the Trustee's receipt of written notice from any Secured Party, the Company or the Issuer of such misrepresentation;

(e) Occurrence of a Concessionaire Termination Event, and such Concessionaire Termination Event will be continuing beyond any cure period applicable to the Company and has not been waived by the District; provided, however, that if such cure or waiver cannot reasonably be obtained within the applicable period, the Company will be entitled to an extension of such time (such extension not to exceed one hundred eighty (180) days) if corrective action is instituted by the Company within the applicable period and diligently pursued until such failure is corrected;

(f) Failure by the Company to perform or observe any material covenant, agreement or obligation under any Material Project Contract (unless such failure could not reasonably be expected to have a Material Adverse Effect), and the Company will have failed to cure such failure or to obtain an effective written waiver thereof within the grace period provided in such Material Project Contract; *provided*, however, that if such cure or waiver cannot reasonably be obtained within the applicable period, the Company will be entitled to an extension of such time (such extension not to exceed one hundred eighty (180) days) if corrective action is instituted by the Company within the applicable period and diligently pursued until such failure is corrected;

(g) One or more non-appealable judgments against the Company for the payment of money in an aggregate amount in excess of $10,000,000 and the same will remain undercharged for a period of thirty (30) consecutive days during which execution will not be effectively stayed;

(h) Any Sponsor fails to perform its obligations under the Equity Contribution Agreement and such Sponsor will have failed to cure such failure within the time periods set forth in the Equity Contribution Agreement;

(i) The Concession Agreement, including Section 42.4 therein, for any reason ceases to be a valid and binding obligation of the District and will remain uncorrected for fifteen (15) days;

(j) The Company suspends or abandons all or a material part of the Project or its activities to design, develop, cause the construction of, operate or maintain the Project, in each case resulting in any Concessionaire Termination Event;

(k) Any Financing Document ceases to be in effect, unless otherwise in accordance with its terms or unless such document is replaced by a contract on substantially similar terms with a counterparty reasonably acceptable to the Trustee as instructed by the Owners of a majority in the aggregate principal amount of the Series 2010 Bonds, in accordance with Section 10.4 of the Indenture, within thirty (30) days following the earlier of (i) the Company's actual knowledge of such occurrence or (ii) the delivery of written notice thereof to the Company by the Trustee, or such longer period, not exceeding one hundred eighty (180) days, reasonably necessary to effect such replacement;

(l) The Design Build Contract is terminated during the Applicable Design Build Period, the Rolling Stock Supply Contract is terminated during the Applicable Design Build Period and/or the O&M Contract is terminated during the Applicable Operating Period and the Company has not entered into a replacement O&M Contract or Design Build Contract or, as the case may be, the Design Build Contractor has not entered into a replacement Rolling Stock Supply Contract pursuant to the terms of the Concession Agreement and the Financing Documents;

(m) Any Security Document ceases, except in accordance with its terms or as expressly permitted under the Financing Documents, to be effective to grant a perfected Security Interest on any material portion of the Project Collateral described therein, other than as a result of actions or failure to act by the Trustee or any other Secured Party;

(n) A Change of Control with respect to the Company will have occurred;

(o) Any Insurance required under the Loan Agreement and the other Financing Documents is not, or ceases to be, in full force and effect at any time when it is required to be in effect and such failure continues for a period of ten (10) business days, unless such insurance is (prior to its cessation) replaced by insurance on substantially similar terms and in form and substance, and with insurers, on terms consistent with the Concession Agreement, and

(p) Failure to achieve the Revenue Service Commencement Date with respect to the East Corridor service by the Bondholder Longstop Date (as such date may be extended in accordance with the terms of the Concession Agreement);

provided, however, there will be no Event of Default under clause (l) or (p) above if an RTD Termination Event has occurred.

Remedies on Event of Default

Whenever any Event of Default referred to in the section "Events of Default" above will have occurred and be continuing, the Trustee, or the Issuer with the written consent of the Trustee, may, in conjunction with its available remedies under the Indenture, take one or any combination of the following remedial steps, by notice to the Company and the Account Bank:

(a) Declare that all or any part of any amount outstanding under the Loan Agreement is (i) immediately due and payable, and/or (ii) payable on demand by the Trustee, and any such notice will take effect in accordance with its terms but only if all amounts payable with respect to the Outstanding Series 2010 Bonds are

being accelerated, or if all of the Outstanding Series 2010 Bonds are being defeased under the terms of the Indenture or otherwise paid in full.

(b) Have reasonable access to and inspect, examine and make copies of the books and records and any and all accounts, data and income tax and other tax returns of the Company during regular business hours of the Company;

(c) Take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Loan Agreement; or

(d) Pursuant to the terms of the Lockbox Account Agreement, direct the Account Bank to take any and all actions necessary to implement any available remedies with respect to the Lockbox Account Collateral under the Lockbox Account Agreement.

(e) Pursuant to the terms of the Security Documents, take or cause to be taken any and all actions necessary to implement any available remedies with respect to the Project Collateral under any of the Security Documents.

Any amounts collected pursuant to action taken under this section "Remedies on Event of Default" and the Security Documents paid to the Trustee will be applied in accordance with the provisions of the Indenture.

Nothing in the Loan Agreement prohibits the Issuer without the consent of the Trustee to pursue remedies specified in paragraph (c) if the Company fails to comply with Sections 4.01(b), 7.02 and 8.04 of the Loan Agreement.

No Remedy Exclusive

Subject to the Indenture and the Lockbox Account Agreement, no remedy under the Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy will be cumulative and will be in addition to every other remedy given under the Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Potential Event of Default or Event of Default will impair any such right or power or will be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in the Loan Agreement, it will not be necessary to give any notice, other than such notice as may be required by Law or in the Loan Agreement. Any such rights and remedies as are given to the Issuer under the Loan Agreement will also extend to the Owners of the Series 2010 Bonds, and the Trustee, subject to the provisions of the Indenture, will be entitled to the benefit of all covenants and agreements contained in the Loan Agreement, subject to the terms of the Security Documents and the Lockbox Account Agreement.

Term of Agreement

Except to the extent otherwise provided in the Loan Agreement, the Loan Agreement is effective upon execution and delivery and will expire at such time as all of the Series 2010 Bonds and the fees and expenses of the Issuer and the Trustee will have been fully paid or provision made for such payments, whichever is later; provided, however, that the Loan Agreement may be terminated prior to such date pursuant to prepayment and redemption as provided in the Loan Agreement and defeasance as provided in the Indenture, but in no event before all of the obligations and duties of the Company under the Loan Agreement have been fully performed, including, without limitation, the payments of all costs and fees mandated hereunder.

Amendments, Changes and Modifications

Subsequent to the issuance of the Series 2010 Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise

expressly provided in the Loan Agreement, the Loan Agreement may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of the Indenture.

Limitation of Issuer's Liability

Nothing in the Loan Agreement, in the Indenture, in the Series 2010 Bonds or the Security Documents will constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State. The Series 2010 Bonds are special, limited obligations of the Issuer, payable solely from and secured solely by the Trust Estate and are not, and will not be deemed to constitute an obligation, moral or otherwise, of the State, any other agency, instrumentality or political subdivision of the State, or any official, board member, director, officer, employee, agent or representative of any of the foregoing, and neither the full faith and credit nor the taxing power of the Issuer, the State or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal of and interest on the Series 2010 Bonds. The Owners of the Series 2010 Bonds may not look to any revenues of the Issuer for repayment of the Series 2010 Bonds, and the only sources of repayment of the Series 2010 Bonds are revenues provided by the Company to the Issuer pursuant to the Loan Agreement for the payment of the principal of, premium, if any, and interest on the Series 2010 Bonds, and the Series 2010 Bonds do not constitute an indebtedness of the Issuer or a multiple-fiscal year obligation of the Issuer within the meaning of any provisions of the State Constitution or the laws of the State. The payment of the Series 2010 Bonds will not be secured by any encumbrance, mortgage or other pledge of property of the Issuer, other than the Trust Estate. No property of the Issuer, subject to such exception, will be liable to be forfeited or taken in payment of the Series 2010 Bonds. Neither the members of the Board nor any persons executing the Series 2010 Bonds will be liable personally on the Series 2010 Bonds by reason of the issuance thereof.

No provision, covenant or agreement contained in the Loan Agreement, or any obligations imposed upon the Issuer in the Loan Agreement, or the breach thereof, will constitute an indebtedness or liability of the Issuer within the meaning of any State constitutional provision or statutory limitation or will constitute or give rise to a pecuniary liability of the Issuer or any member, officer or agent of the Issuer or a charge against the Issuer's general credit. In making the agreements, provisions and covenants set forth in the Loan Agreement, the Issuer has not obligated itself except with respect to the application of the revenues, as hereinabove provided.

Applicable Law

The Loan Agreement will be governed by and construed in accordance with the laws of the State.

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APPENDIX J

TECHNICAL ADVISOR REPORT

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Denver Transit Partners

Eagle P3 Technical Advisor

Technical Due Diligence
Bond Summary Report

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Denver Transit Partners

Eagle P3 Technical Advisor

Technical Due Diligence

Bond Summary Report

July 2010

Arup North America Ltd
560 Mission Street, Suite 700, San Francisco, CA 94105
Tel +1 415 957 9445 Fax +1 415 957 9096
www.arup.com

Job number 211368-00

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Contents

Executive Summary

Macquarie Capital (USA) Inc. (Macquarie), Fluor Enterprises Inc. (Fluor), Balfour Beatty Rail Inc. (BBRI), Ames Construction, Inc. (Ames), and Alternate Concepts Inc. (ACI), together forming the Denver Transit Partners Consortium (Denver Transit Partners or DTP), have been awarded a long term concession to design, build, finance, operate and maintain a portion of the Denver metropolitan commuter rail network (Eagle P3 Project or the Project).

The concession contract to design, build, finance, operate and maintain the Project was executed with the Regional Transportation District (RTD) on July 9, 2010.

Arup (the Lender's Technical Advisor or LTA) has completed, on behalf of the Lenders, a Technical Due Diligence review of the Project and associated contracts contained herein.

The opinions and conclusions contained herein are based upon our review of information received up to July 11, 2010. Arup reserves the right to amend our conclusions and opinions based on any changes subsequent to the delivery of this report.

Project Description

The Eagle P3 Project is part of FasTracks, a significant rail transit expansion plan managed by RTD. Building upon the existing light rail network, FasTracks encompasses 122-miles of new commuter and light rail, 18-miles of bus rapid transit and numerous new stations. Commencing in 2005, the plan is broken into seven segments: the West Corridor, East Corridor, Gold Line Corridor, Northwest Corridor, North Corridor, I-225 Corridor and US 36 Bus Rapid Transit Corridor. Denver Union Station will serve as the hub station for all rail services.

The Eagle P3 Project is a long-term concession to perform final design, construction, operation and maintenance of the East Corridor, Gold Line Corridor and the first section of the Northwest Corridor, the Northwest Electrified Segment (NWES). In addition, the Project involves the procurement of commuter rail rolling stock (the first electric multiple units (EMUs) in the RTD fleet) and the construction of a Commuter Rail Maintenance Facility (CRMF).

DTP is planning to complete the construction phase of the Project by mid-2016, with the East Corridor (Phase 1) completed earlier in that year. The operating and maintenance concession will then extend through December 2056 (Amendment 1 to the Concessions Agreement contemplates shortening to 2044[1]), at which time the assets will be transferred back to RTD.

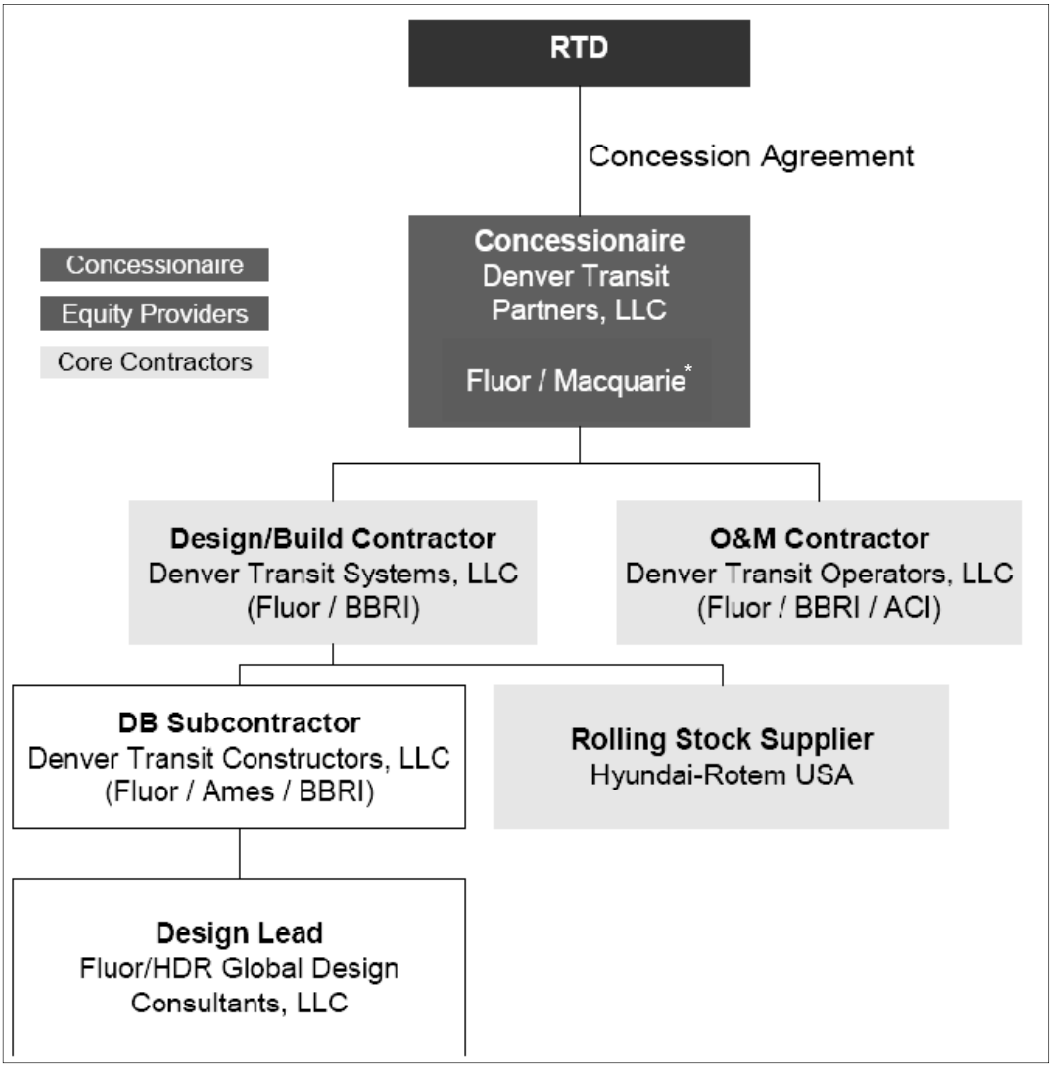
From an engineering perspective, Arup believes that the design and delivery of the Project is not contemplated to be particularly challenging for the following reasons: the terrain is not challenging; the rolling stock to be utilized is based on a design that is currently being tested and commissioned; civil works (stations, maintenance facility, bridges) are typical in such applications elsewhere; the systems technology conforms to industry state of practice; and, the operation and maintenance of the hardware (as well as the software) is routine given the rail expertise that exists in the US.

RTD will provide land for DTP to construct the Project, and the Concessionaire will be given relief if such land is not available when needed. DTP has a robust process established to track the availability of and access to all sites when they are needed by the Concessionaire to sequence their work.

[1] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

Consortium Assessment

The technical team is led by Fluor, the financial team by Macquarie. The firms working with Fluor and Macquarie are experienced in their respective fields, and have adequate know how in the delivery of large capital programs elsewhere. This is important in terms of the ability to manage the risks associated with large projects. The concession structure is shown below.



*Macquarie has entered into agreements to sell its equity stake at financial close

Fluor Enterprises, Inc. (Fluor) and Macquarie Capital Group Limited (Macquarie) have set up a special purpose vehicle (SPV), Denver Transit Partners, LLC (DTP), to act as the Concessionaire to enter into the concession contract with RTD, as well as entering some subcontracts in relation to design, construction, operation, maintenance and renewal of the Project. The Concessionaire will contract with Denver Transit Systems, LLC (DTS) to accomplish all design, engineering, rolling stock procurement, construction and integration of the elements of the concession requirements on the Project, and with Denver Transit Operators, LLC (DTO) for operation, maintenance and rehabilitation.

DTS is owned by Fluor Enterprises, Inc., and Balfour Beatty Rail, Inc., with Fluor as the managing partner. DTS will then in turn subcontract design and construction obligations for the Project to an integrated joint venture composed of Fluor Enterprise, Balfour Beatty Rail, Inc., and Ames Construction, Inc. (Denver Transit Constructors, LLC (DTC)), while the rolling stock will be procured through a contract with Hyundai-Rotem USA Corporation.

For the operations and maintenance obligations under the concession agreement, DTO will operate and maintain the assets of the Project, including the rolling stock. The owners and members of DTO will include Fluor Enterprises, Inc., Balfour Beatty Rail, Inc. (BBRI), and Alternate Concepts, Inc. (ACI). Fluor will be providing management and administrative support, BBRI will be responsible for the maintenance and renewals of the right-of-way (track, structures, systems, traction power), while ACI will be responsible for operation of the system and maintenance of the rolling stock.

The Denver Transit Partners (DTP) Consortium is Comprised of:	Role
Fluor Enterprises, Inc.	10% Equity Provider / Design-Build Lead /Design/ Operations and Maintenance
Macquarie Capital Group Limited	90% Equity Provider (Anticipated sale to John Laing and Uberior) / Financial Advisor
John Laing Investments Ltd.	45% Equity Provider (Anticipated purchase from Macquarie)
Uberior Infrastructure Investments	45% Equity Provider (Anticipated purchase from Macquarie)
Interfleet Technology, Inc.	Technical Advisor Rail Car Procurement
Balfour Beatty Rail, Inc. (BBRI)	Construction/ Operations & Maintenance
Ames Construction, Inc.	Construction
Alternate Concepts, Inc. (ACI)	Operations & Maintenance
Wabtec	Positive Train Control Systems
Fluor/HDR Global Design Consultants, LLC	Lead Design
BBRI **Gannett-Fleming** **Parsons Brinckerhoff** **PBS&J** **SYSTRA**	Design
Hyundai Rotem USA Corporation	Rolling Stock

Risk Management Process

Arup has reviewed and assessed DTP's risk management process and identification of the Project risks.

Arup confirms that DTP's risk management process is well defined and managed. The process observed by the LTA demonstrated risk identification consistent with the progress of design. The process provided representation and input from each of the various disciplines and functional areas in the proposal development and proposed project. The LTA is comfortable that DTP has applied a robust and well documented risk management process, and that risks were considered in a balanced approach.

The risk register reviewed by the LTA was broad in scope and covered, Design Build (DB), rolling stock, and Operations, Maintenance and Renewal (OMR). Each of the broad areas included event and estimate risks. Opportunities and potential actions to mitigate risk were included in the risk register.

Arup's opinions on the risks to the Concessionaire with respect to the design, construction and operation of this project are as follows:

- No particular issues have been identified with respect to DTP (including its constituent companies) or to identified third parties that would cause Arup concern with respect to DTP's ability to undertake the Project and meet the obligations of the Concession Agreement. The LTA has observed good working relationships to date, and that various Management Plans provide adequate guidance on how to manage issues as they arise.
- An existing rolling stock design, currently in production, has been selected by DTP for this project, and the specifications are prescriptive. Consequently, and in Arup's opinion, there is low risk that the design will not conform to RTD's design requirements.
- The rolling stock must demonstrate conformance to a defined set of performance standards prior to final acceptance, and this risk has been passed to the rolling stock supplier with adequate parent company guarantee and security provided. The risk to the Concessionaire is therefore mitigated.
- DTP performed system operating simulations through a competent supplier to understand the traction power requirements of the vehicles, as well as the traction power usage requirements. The risk of the rolling stock not having adequate power to perform on the system is low.
- Latent defect risk for rolling stock is mitigated by defined Mean Time Between Failure (MTBF) criteria specified in the rolling stock supply contract. Arup is satisfied that the length of the warranty terms for the various components of the rolling stock are adequate and coordinated in terms of the anticipated maintenance requirements estimated for the rolling stock.
- A portion of single track has been selected as part of the baseline design. The risk associated with this option is that track maintenance or emergency conditions may remove a portion of this single track segment from service and disrupt continuity of service. This risk is considered to be manageable, but is noted.
- Stations are relatively simple in layout, and the associated risks have been captured in the risk register and adequately priced/mitigated. The LTA is not aware of any unmanageable risks.
- The risks associated with CRMF/Yard/ Shops have been captured in the risk register and adequately priced/mitigated. The LTA is not aware of any unmanageable risks.
- The structures are of straightforward design and construction, and the LTA is not aware of any unmanageable risks.
- Geotechnical risk is confined to surface and shallow subsurface ground conditions. The LTA considers the geotechnical design well managed and does not discern inherent risks unmanageable.
- The LTA believes that there is risk to delay in availability of sites for construction if mitigation of an identified contaminant takes longer than expected. This could be mitigated from a project basis by the float that is currently in the schedule, and the fact that construction can continue on other locations while a particular site is being remediated and prepared for construction. The LTA is satisfied that this risk is manageable, absent other factors outside of our knowledge.
- The railway systems proposed are proven and based upon readily available technology. Integration issues are to be expected, although none are anticipated that will prevent implementation and operations of the system as planned. DTP constituent companies have experience in managing these issues on a design, construction, and operating

basis, to include maintenance and renewal. The LTA does not anticipate major issues with design or implementation.

- DTP has prepared an Integration Management Plan and assigned an Integration Manager to mitigate any integration risks. The Design Build Contractor is responsible for integration of the railway systems, and rolling stock integration risk has been passed to the rolling stock supplier supported by an adequate parent company guaranty and security package. The LTA does not foresee any unmanageable risk, and is satisfied that this risk is well managed.
- The proposed dispatch and train control system is adequate, and the LTA does not foresee any unmanageable risks.
- In Arup's opinion, there are some risks in not being able to meet the deadlines mandated by the FRA regarding Positive Train Control (PTC) implementation. To deal with this risk, DTP has selected Wabtec (preferred supplier of PTC for the Class I railroads[2]), and has Xorail, a Wabtec owned company, as the supplier of the Automatic Train Control (ATC) system. If there are problems with PTC implementation, this issue will affect the entire North American railway sector. Since implementing PTC is an industry wide issue, Arup is comfortable with this risk as FRA will most likely work to enable the proper functioning of this key sector of the US economy.
- The LTA believes any risk of having too few qualified bidders for sub-contracted services in the current economic environment is minimal.
- Availability of construction material is a typical concern. DTP has a process in place to evaluate material suppliers and experienced in vendor/supplier management. Arup considers the risk of having access to available construction materials to be negligible based on current conditions.
- DTP is doing what it can to hedge against any future unforeseeable pricing of materials. Obviously, market pricing is subject to outside factors. Arup considers this risk to be in line with projects of this type and level of development.
- Availability of construction equipment is another typical concern. DTP has a process in place to evaluate lease versus buy decisions, and is experienced in construction management. There is no highly specialized equipment required to construct this project that would not be reasonably available for heavy civil infrastructure works. The LTA considers this risk to be negligible.
- The LTA believes any risk of too few qualified professional, skilled craft, and unskilled labor is minimal. Given the current labor market, the cost of labor does not appear to be a major variable over the construction period. Estimated labor rates are influenced by the local prevailing wages. This risk is considered to be negligible.
- For the OMR Contract, a set of indices have been used to escalate labor, materials, and non-traction power costs. These include the US BLS Labor Index, CPI-U, RCAF, and EIA respectively. The LTA agrees that these are appropriate indices to utilize. In addition, the Concession Agreement provides protection to the OMR Contractor (and RTD) if the labor and materials indices do not reflect prevailing market conditions.
- Payments to the Concessionaire are based on availability and system performance. DTP retains performance risk from failing to meet the performance regime. Analysis of the performance regime indicates that the penalty risk due to DTP's failure to meet performance objectives is manageable as the OMR Contractor has direct control over most of types of performance deductions. As a result, there could be occasional

[2] As of 2009, there are seven Class 1 railroads in the United States (http://www.aar.org) and according to the 2008 American Association of Railroads (AAR) Factbook (pg.3) they account for 97 percent of the total U.S. freight railroad revenue.

periods of material loss in the availability payments; however the risk to the Concessionaire for such occasional periods is relatively low.

Technical Review of Concession Agreement

The Concession Agreement is the primary document that governs the relationship between the RTD and the Concessionaire. It covers the design and construction of all the elements of the Eagle P3 civil works and systems, procurement and commissioning of the rolling stock and commuter rail services on the project for 40 years[3] following the end of construction. The LTA has reviewed the executed Concession Agreement.

Arup considers the Concession Agreement to be reasonable from a technical perspective. The Service Payment Regime, Relief Events and Force Majeure clauses of the Concession Agreement are well defined, and favorable to the Concessionaire.

Service Payment Model Sensitivity Analysis

The Concessionaire receives payment through a Service Payment Regime. To analyze the regime, the LTA developed a performance penalty regime model, based on the performance regime algorithms presented in the Concession Agreement. This analysis was used to confirm the potential revenue impact to the Concessionaire of a number of service failure scenarios. These are presented in detail in the report, and demonstrate that the Service Payment Regime is reasonable and that the penalty risk due to failure to meet performance objectives is manageable.

Absent Concessionaire default, the Monthly Service Payment cannot fall below 75 percent. This is because the lowest achievable value of the Availability Factor is 80 percent, and the maximum value of the Performance Deduction Percentage (STOP points) is 5 percent.

Technical Specification and Design Review

DTP's technical proposal seeks to meet the technical specifications and requirements set by RTD. Because the design is currently at a 30 percent level of completion, there are some details of the technical requirements that will be added in subsequent stages of design. This is standard industry practice. The technical design of the Project can be divided into four areas: rolling stock, track, civil works and systems (communications, control).

Arup finds both RTD's specifications and DTP's technical proposal to be in line with industry best practices.

Rolling Stock

The rolling stock selected is about to commence operating in Philadelphia as part of the SEPTA network. The selection of proven rolling stock technology that will be in service mitigates many risks inherent with new rolling stock. The majority of the sub-systems, trucks, and brake equipment will be the same as the SEPTA application, and the testing and entry into service of the cars in Philadelphia will eliminate most of the potential start up problems with the cars for the Eagle P3 Project.

Track

The general approach to the track requirements and track design is to provide an alignment capable of supporting 79 mph operation in line with FRA Class 4 track. The design requirements are based on FRA standards and AREMA recommended best practices. Arup has reviewed the track design and is satisfied that the DTP design seeks to comply with the requirements. There are some recommended modifications to the RTD alignment that have been proposed by DTP that will improve operational reliability or lower the overall cost of construction. We have reviewed these modifications and agree with them.

[3] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

Arup considers the overall track design to be reasonable and consistent with industry best practices. In our observations, there are no unusual or non-standard materials or construction techniques required to build, operate, and maintain the track.

Communications and Control Systems

Arup has completed its review of the Rail Systems Design documents, including the preliminary design efforts for the disciplines of Railway Signaling, Train Control, Railway Communications, Traction Electrification System, Overhead Contact System, and the Operations Control Center/Dispatch Systems. Overall, the 30 percent level of design completion complies with established rail standards, is conservative in its approach, and characteristic of a reliable method of sequencing for the railway industry.

The proposed signal technology will comply with the Positive Train Control (PTC) requirements of the Rail Safety Improvement Act of 2008 and associated Federal Railroad Administration (FRA) Regulations. This proposed technology is under development, and it is not clear if it will be ready for 2015 (the official deadline set in the Act). In order to mitigate the risk associated with this new control system, DTP has commissioned Wabtec to supply the PTC design and equipment. Wabtec is the selected PTC implementer by the nation's freight railroads, and this should help their success. In case there are problems resulting in delays to PTC implementation, it will affect the entire US railway industry. It is very unlikely that the FRA will halt US railway operations because of this.

Civil Works

Civil works encompass the Commuter Rail Maintenance Facility, stations, bridges and other structures (roadways, grade crossings).

Arup finds that the Commuter Rail Maintenance Facility (CRMF) centralizes all the necessary elements to safely operate, maintain the rolling stock and track work. The yard is arranged logically to prevent vehicles entering and exiting the facility that would adversely affect mainline operations. There is also space planned for the future expansion of the facility as the commuter service grows.

The LTA finds no major risks apparent in station designs as presented to date (30 percent design level of completion).

All bridge and structure types reviewed are common in infrastructure construction, and there are multiple fabricators and contractors familiar with both the type of design and methods of fabrication or construction.

The LTA has reviewed the existing Utility Matrix and the utility contact list for all the corridors. It appears to be a thorough list containing the type and nature of utilities that would be expected on a project such as this, and these have been adequately accounted for by DTP.

Design Build Contract Review

The Design Build Contract has been developed "back-to-back" with the Concession Agreement (CA), such that the design-build and rolling stock procurement obligations and risks have been transferred from the Concessionaire to the Design Build Contractor. Adequate deadlines and milestones, including step-in milestones, for the Design-Build work have been set to avoid termination of the Concession Agreement for causes attributable to the Contractor. This will allow the Concessionaire to implement remedial actions, if necessary, to avoid termination.

In Arup's opinion, the Design Build Contract contains an appropriate security package within its framework. We find that this has substantially mitigated the risk to the Concessionaire for the construction, testing, commissioning and acceptance of the infrastructure and rolling stock.

Rolling Stock Contract Review

The Rolling Stock Contract is between the Design Build Contractor and the Rolling Stock Supplier. The contract has a quantity of 50 vehicles as its basis, but there is an option to purchase an additional 8 to 24 vehicles if ordered within 24 months from the Design Build Contractor's scheduled delivery date of the last vehicle. This complies with the requirements of the Project.

The technical requirements for the rolling stock are clearly stated, and consistent with the requirements of the Project. The responsibilities of the Rolling Stock Supplier are also very clearly stated.

There are clear statements of vehicle quantities and the basis for pricing. Payments are progress based. The pricing is set in US Dollars and does not allow for adjustments due to currency exchange rate fluctuations. Adequate surety and Liquidated Damages are specified in the contract.

The LTA finds that the Rolling Stock Contract protects the Concessionaire in the procurement and integration of rolling stock. The LTA finds that the contract is favorable to the Design Build Contractor and substantially transfers risk for rolling stock manufacture, delivery, testing and commissioning to the Rolling Stock Supplier.

Interface Agreement

The Interface Agreement establishes the processes and protections under which the Concessionaire, DB Contractor, and OMR Contractor will work together during the design-build period, up to and including testing and commissioning of the system and the design build warranty period. Whereas the DB and OMR Contracts transfer risk to the DB and OMR Contractors, respectively, much of this agreement specifies responsibilities between the DB and OMR Contractors, thus delineating risk between these two parties. This indirectly reduces overall risk to the Concessionaire by making clear the responsibilities of the Contractors, and how they will interact in the project. The LTA notes that Fluor and BBRI are on both sides of the DB and OMR entities, which should further streamline the implementation of the project, and further reduce risk to the Concessionaire. In addition, since the Rolling Stock Contract is with the DB Contractor, and not the Concessionaire, the Concessionaire benefits from an additional level of protection in the procurement and integration of the Rolling Stock.

Construction Cost

The LTA is satisfied that the DB Contractor has captured the entire scope of the Project in the construction cost estimate, and that the estimate as presented to the LTA should be considered adequate and reasonable. The LTA is satisfied that the DB Contractor has reasonably identified the breakdown of wages, materials, equipment, and identified subcontractors, and has provided a realistic indirect cost projection. The LTA is satisfied that the DB Contractor has prepared a schedule that is consistent with the work-plan and estimated means and methods, and is sufficiently experienced in the Denver market.

Through the course of working with the Concessionaire team, the LTA has become comfortable that the Concessionaire and the DB Contractor have a solid understanding of the plans, specifications, agreements, scope of work and the resultant quantifications, and that the DB Contractor put together a qualified robust team to prepare the estimate.

The sum of estimated contingency, escalation and profit constitutes the risk mitigation package for the DB Contractor. The LTA is comfortable that in the aggregate, the risk mitigation amount is adequately accounted for.

Construction Schedule

The LTA is satisfied that DTP has developed a robust construction schedule that considers how the various elements will be executed, and how long it will take to do this. The LTA considers the schedule to be conservative, with little risk of not completing the work within the planned 6-year duration assuming no unforeseeable events intervene. The LTA is satisfied that there is sufficient

float to allow for lower than expected production rates in certain areas and that the critical path elements on all corridors are manageable.

The testing, commissioning and acceptance period for the project is approximately 13 months for the East Corridor, 12 months for the NWES Corridor, and 13 months for the Gold Line Corridor. The LTA is comfortable that these are reasonable durations to conduct the necessary work to complete these milestones.

Operations, Maintenance and Renewals Contract

The Operations, Maintenance and Renewals (OMR) Contract is a 40-year contract[4] that has been developed "back-to-back" with the Concession Agreement, such that the operation, maintenance and renewal obligations and risks have been transferred from the Concessionaire to the OMR Contractor. Adequate criteria for the OMR Contractor have been set to avoid termination of the Concession Agreement for causes attributable to the OMR Contractor. In the event of poor OMR Contractor performance, this will allow the Concessionaire to implement opportune remedial actions to avoid termination. The Concessionaire has adequate time to terminate and replace the OMR Contractor, if necessary, due to inadequate performance. The LTA finds that the OMR Contract has substantially mitigated the risk to the Concessionaire for the operations, maintenance and renewal requirements of the project, and that an appropriate security package has been established that will protect the Concessionaire.

Operations, Maintenance, and Renewals Requirements

The LTA has reviewed the OMR requirements by RTD, and the OMR plans developed by DTP. The requirements set by RTD are reasonable, and consistent with industry best practices for commuter rail. The plans developed by DTP for the start-up, commissioning, on-going operations, and renewal of the assets are reasonable, and consistent with industry best practices for commuter rail. The handover provisions and handover process at the end of the Concession Period are reasonable.

OMR Cost Estimate

The LTA considers DTP's OMR cost estimate to be within appropriate industry benchmarks, and positively reflective of the high utilization of the rolling stock. The LTA has reviewed the assumptions and methods used in developing the OMR cost estimate. The LTA is comfortable that the process has been comprehensive and robust. The LTA notes that new, modern purpose-built systems, infrastructure and equipment, combined with high utilization of rolling stock and a more productive lower cost labor force are important considerations in this opinion.

The Partnering Program provisions in the Concession Agreement will allow the Concessionaire to work with RTD to adjust components of the OMR budget to account for unforeseeable events.

OMR Staffing and Organizational Structure

The LTA is comfortable with the overall staffing level as presented by DTO and finds that the organizational structure is logically designed for the technical requirements of operating a commuter rail system of this size.

The LTA finds the approach to pay schedules and benefits well thought out and appropriate for the employment market that DTO will compete in and finds the staffing ramp-up plan adequate given requirements for overall recruiting, training, testing, development and implementation of plans, programs and systems in advance of service implementation.

[4] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

Maintenance and Renewals Management

The LTA is comfortable that the DTP team fully understands the requirements of railway maintenance, and has a plan in place to properly and effectively maintain the railway. In addition, the LTA believes that thought has been given to implementing a design that will minimize overall maintenance and renewal costs over the life of the project.

OMR Cost Estimate Contingency

The LTA is satisfied with the OMR contingency for each of the OMR stages; pre-revenue service, on-going annual operations and maintenance, and capital renewals estimates. The pass-through provisions of the OMR Contract transfer OMR cost risk to the OMR Contractor. Therefore, the risk to the Concessionaire from a contingency gap is low. The LTA believes that any contingency gap would be small, and is comfortable that the OMR security package is sufficient to mitigate the risk to the Concessionaire from such a contingency gap.

Material Loss Event Analysis

To assess material loss events, the LTA considered both construction and operations events.

The LTA considered five construction events that included: a bridge girder collapse over a major highway; a bridge girder collapse over one of the freight railroads; a high pressure gas line penetration; the insolvency or poor performance of the systems provider; and the insolvency of the rolling stock provider. In all cases, using a probabilistic analysis, the LTA believes a limit of liability of 45 percent as set forth in the DB Contract is adequate to cover any potential liability incurred as a result of the constructor's or the supplier's failure to perform, and thus mitigates risk to the Concessionaire.

The LTA considered three material loss scenarios for the OMR Contractor. These included two catastrophic collision events and a replacement event by the Concessionaire of the OMR Contractor. Although the LTA considers these events unlikely to occur, they represent possible major loss events. In all cases, the material loss to the OMR Contractor is less than their anticipated Limit of Liability and Letter of Credit amount which mitigates the risk to the Concessionaire. In the two train collision events, the temporary drop in system performance could trigger Concessionaire Termination, but the LTA believes that an appropriate remedial action plan would be produced and approved by RTD, and the event would not lead to Concessionaire or OMR termination. In the OMR replacement scenario, the LTA believes the Concessionaire would take a pro-active action to prevent the possibility of a Termination Notice of the Concessionaire by RTD per the Concession Agreement.

Environmental Compliance

Arup has reviewed the environmental compliance of the project for both the federal regulatory planning requirements and the project specific environmental issues, and finds no significant issues of concern. The LTA is not aware of any permits that present an unusual risk to procure during the construction period.

There is a well thought out approach, consistent with industry standard, for obtaining the requisite environmental permits for construction of the project and for implementing the mitigation measures required by law. The permitting process for the project has been managed well to date with most environmental permits already in hand.

The Concession Agreement provides a reasonable site mitigation process which relieves the Concessionaire from most of the risk associated with environmental clean-up.

The LTA is satisfied that DTP has outlined a well thought out approach for implementing the mitigation measures required by the various NEPA documents.

1 Project Description

1.1 Scope

Macquarie Capital (USA) Inc. (Macquarie), Fluor Enterprises, Inc. (Fluor), Balfour Beatty Rail Inc. (BBRI), Ames Construction, Inc. (Ames), and Alternate Concepts, Inc. (ACI), together have formed the Denver Transit Partners (DTP) consortium. DTP have been awarded a contract to design, build, finance, operate and maintain a portion of the Denver metropolitan commuter rail network (Eagle P3 Project or the Project).

Commercial close was reached on July 9, 2010 and Financial Close is expected to occur sometime in August 2010.

Arup (the Lender's Technical Advisor or the LTA) undertook, on behalf of the Lenders, a Technical Due Diligence review of the Project and associated contracts.

The scope of our review can be broadly summarized as follows:

- Assessment of the team (including key personnel)
- Review of the various project agreements (Concession, Design Build, Rolling Stock and Operation and Maintenance Contracts)
- Review of the External Project Technical Interfaces
- Review of the Project Design, Construction Schedule
- Review of the Construction Cost estimates
- Review of the Operation and Maintenance Plan
- Review of the Operation, Maintenance and Renewal estimates
- Review of Environmental Compliance
- Review of risk assessment process, risk register, and contingency
- DB security package analysis
- OMR security package analysis

This LTA report has been prepared based upon discussions with the DTP team members, and through review of the proposal documents, executed Concession Agreement, and a review of the executed versions of contracts for the DB Contract, Rolling Stock Supply Contract and OMR Contract.

1.2 FasTracks Program

The Eagle P3 Project is part of a larger rail transit expansion plan managed by the Denver Regional Transportation District (RTD) called FasTracks. Building off the existing light rail network, FasTracks encompasses 122-miles of new commuter and light rail, 18-miles of bus rapid transit and numerous new stations, plus maintenance facilities[5]. The plan is divided into seven segments, and Denver Union Station (DUS) will serve as the hub station for all rail services (see Figure 1).

[5] http://www.rtd-fastracks.com/main_26

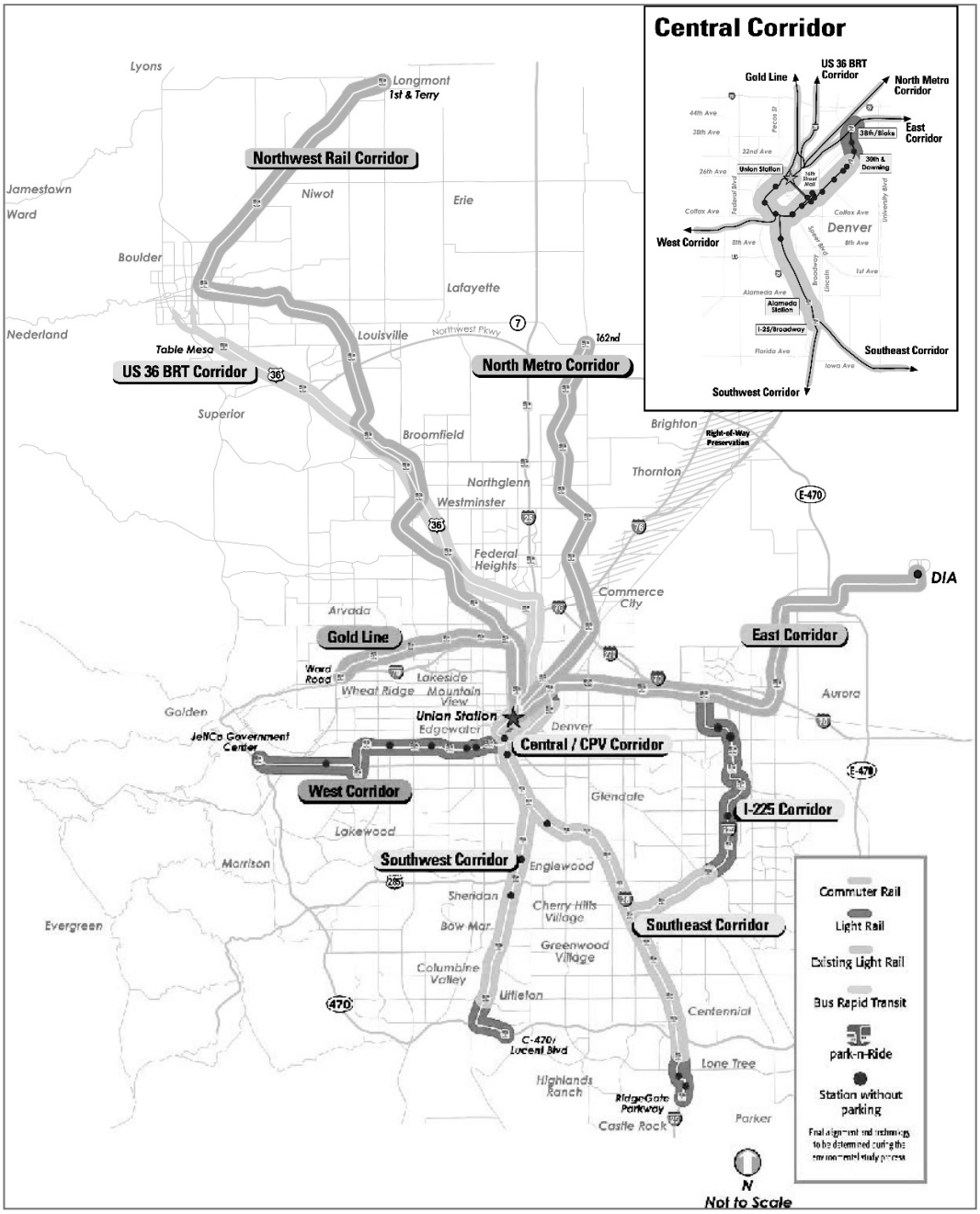


Figure 1 - FasTracks System Map (Source: www.RTD-Fastracks.com)

1.3 The Regional Transportation District

RTD was formed in 1969 as the regional authority to operate public transit systems within the eight Denver-metro counties. These include all of Boulder, Broomfield, Denver and Jefferson Counties, and portions of Douglas, Arapahoe, Adams and Weld Counties.[6]

RTD primarily operates as a bus transit system; however, RTD has implemented the Southwest Corridor in year 2000, an 8.7 mile light rail corridor with five stations[7], and19-miles of light rail corridor with 13 stations as part of the TREX project, jointly implemented

[6] http://www.rtd-denver.com/PDF_Files/Directors_District_Map.pdf
[7] http://www.rtd-denver.com/PDF_Files/Fact_Sheets/SouthWest_Facts.pdf

with the Colorado Department of Transportation (CDOT). TREX was procured as a design-build contract[8].

As such, it appears that RTD is an experienced operator and owner and capable of successfully managing and completing the Eagle P3 Project, although their rail experience is limited to light rail construction and operation. However, several of their senior technical staff has significant commuter rail experience, and RTD is supported by a strong team of consulting firms with significant commuter rail design experience (Jacobs Engineering, Parsons and LTK). Additionally, RTD's Commuter Rail Design Criteria Manual and other reference documents provided show adequate understanding of commuter rail technical requirements. Therefore, there is limited risk in their response to commuter railway issues, aside from the recent developments in federal requirements affecting all transit systems, which should be taken into account in DTP's management of the Project and the owner.

1.4 Eagle P3 Project Elements

The Eagle P3 Project consists of the final design, construction, operation and maintenance of the East Corridor, Gold Line Corridor and the initial (south eastern) section of the Northwest Corridor. In addition, the Project involves the procurement of the commuter rail rolling stock, the first electric multiple units (EMUs) in the RTD fleet, and the Commuter Rail Maintenance Facility (CRMF) to maintain and operate the new system.

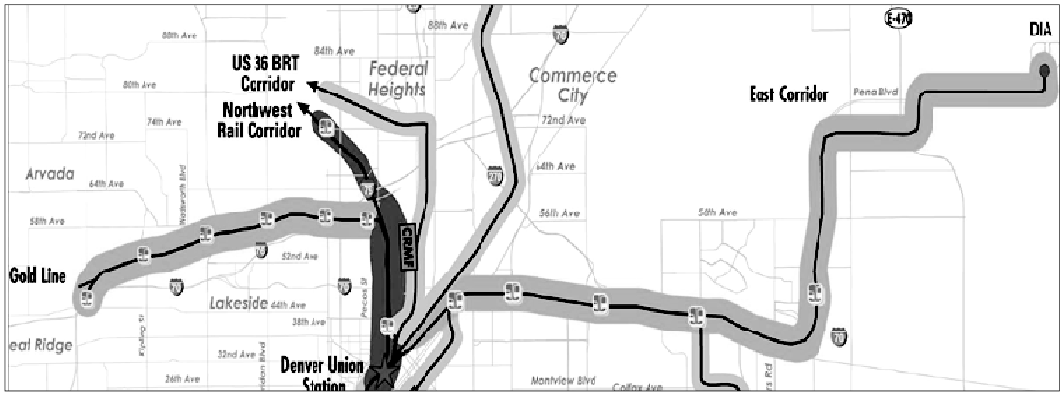


Figure 2 - Eagle P3 Project Overview

DTP is planning to have the East Corridor (Phase 1) in operation by January 2016 and the NWES and Gold line (Phase 2) in operation by March and July 2016 respectively. The operating and maintenance concession is to run through December 2056[9], at which time the assets will be handed over to RTD, in operating condition.

1.4.1 DUS Rail Segment

Denver Union Station, hub station for all rail services, is currently being reconstructed by RTD under a separate contract. As such, the scope of the Concessionaire's work in this area is limited to coordination with the DUS contractor, design and construction of the required traction power, communications, signaling and passenger information in approximately the first 1000-feet of track east of the station (the DUS Rail Segment).

1.4.2 East Corridor

The East Corridor is a 22.8-mile corridor connecting into the DUS rail Segment that will provide service between Denver international Airport (DIA) and DUS with five additional stations. The corridor will be constructed primarily within the existing Union Pacific Rail

[8] http://www.rtd-denver.com/PDF_Files/Fact_Sheets/Southeast_Corridor_Facts.pdf

[9] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

Road (UPRR) right-of-way, on separate dedicated track, from the DUS Rail Segment to Airport Boulevard, where the tracks cross I-70 on a viaduct and continue to DIA in a green-field corridor that is relatively undeveloped. The DIA Station is being designed and constructed by the airport.

Figure 3 - East Corridor Map

1.4.3 Gold Line Corridor

The Gold Line is a 7.3-mile electrified commuter rail line to be constructed from the Pecos Junction (with NWES) through Adams County to Arvada and terminate in Wheat Ridge, with five stations along the corridor. This line will be constructed primarily within Burlington Northern Santa Fe (BNSF) right-of-way on separate dedicated tracks. The Gold Line trains will share track with the NWES for the first 4-miles north of DUS, to Pecos Junction.

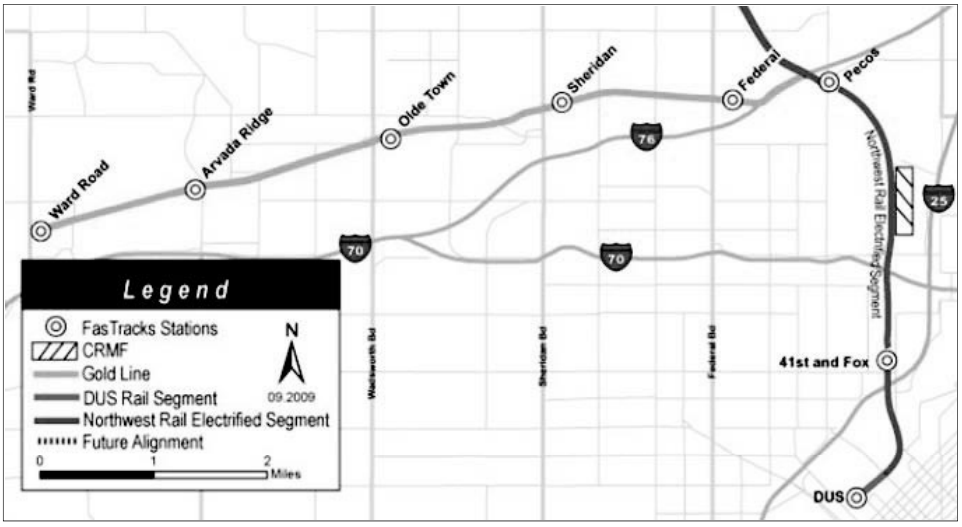


Figure 4 - Gold Line Map

1.4.4 Northwest Corridor Electrification

The Northwest Corridor in its entirety is a proposed 41-mile corridor from Denver Union Station to Longmont, passing through North Denver, Adams County, Westminster, Broomfield, Louisville, and Boulder, that will be constructed within the BNSF right-of-way.

The Eagle P3 Concessionaire will only be responsible for the construction of the first 5.2-miles of the corridor, known as the Northwest Electrification Section (NWES), from the DUS Rail Segment to South Westminster Station. The NWES contains three stations and will

serve the Gold Line trains, and contain the access to the CRMF for non-revenue service trains. Just west of Pecos Station is the Pecos Junction where the Gold Line Corridor branches toward the west. North of this junction, the NWES will be single tracked to South Westminster Station.

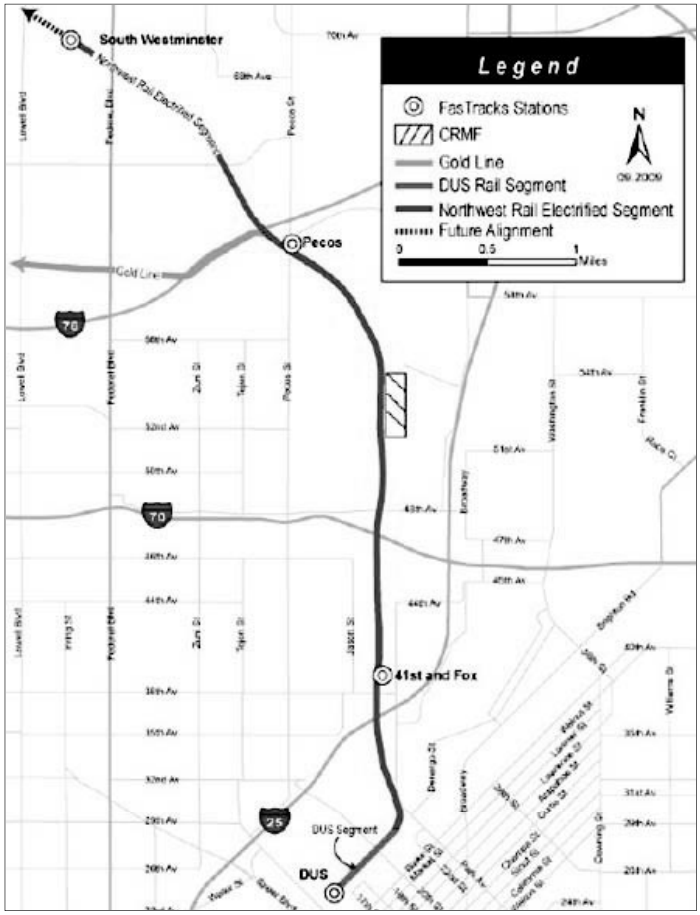


Figure 5 - Northwest Rail Electrified Segment Map

1.4.5 Rolling Stock Procurement

The Eagle P3 Project requires the procurement of electric multiple units (EMUs) for the Gold Line Corridor, East Corridor and the NWES. The EMUs are a commuter rail classification capable of much higher speeds than the current LRT vehicles operated by RTD.

1.4.6 Commuter Rail Maintenance Facility

The introduction of the EMU rolling stock will require the construction of the Commuter Rail Maintenance Facility (CRMF) to maintain, store and clean the vehicles. The current RTD maintenance facility is only able to service light rail vehicles. The CRMF will be located along the shared Gold Line / NWES track approximately two miles north of Union Station. The CRMF will house the operations control center (OCC) for the East Corridor, Gold Line and the NWES that will ultimately serve all of the Northwest Corridor and the North Corridor. Additionally, this will be the central location for maintenance, storage of the rolling stock and the shop and yard for storage and maintenance of Maintenance and Way (MOW) equipment.

1.4.7 Project Phases and Overall Schedule

The Eagle P3 Project is comprised of two broad phases, Phase 1 and Phase 2, being conducted almost concurrently.

Phase 1 includes the following items:

- Performance of the early works package (subject to a separate notice to proceed),
- Completion of the design and approval of the entire Project,
- Procurement of rolling stock, and delivery of 50 production vehicles.
- Construction of the East Corridor, and the NWES to the CRMF
- Construction of the CRMF sufficient to provide support to the East Corridor, and,
- Provisions of operation, maintenance and renewal (OMR) for the East Corridor, DUS Rail Segment and the CRMF.

Phase 1 is anticipated to start in August 2010 and take approximately 5.5 years to start revenue service, with the CRMF and NWES to the CRMF completed in five years.

Phase 2 includes:

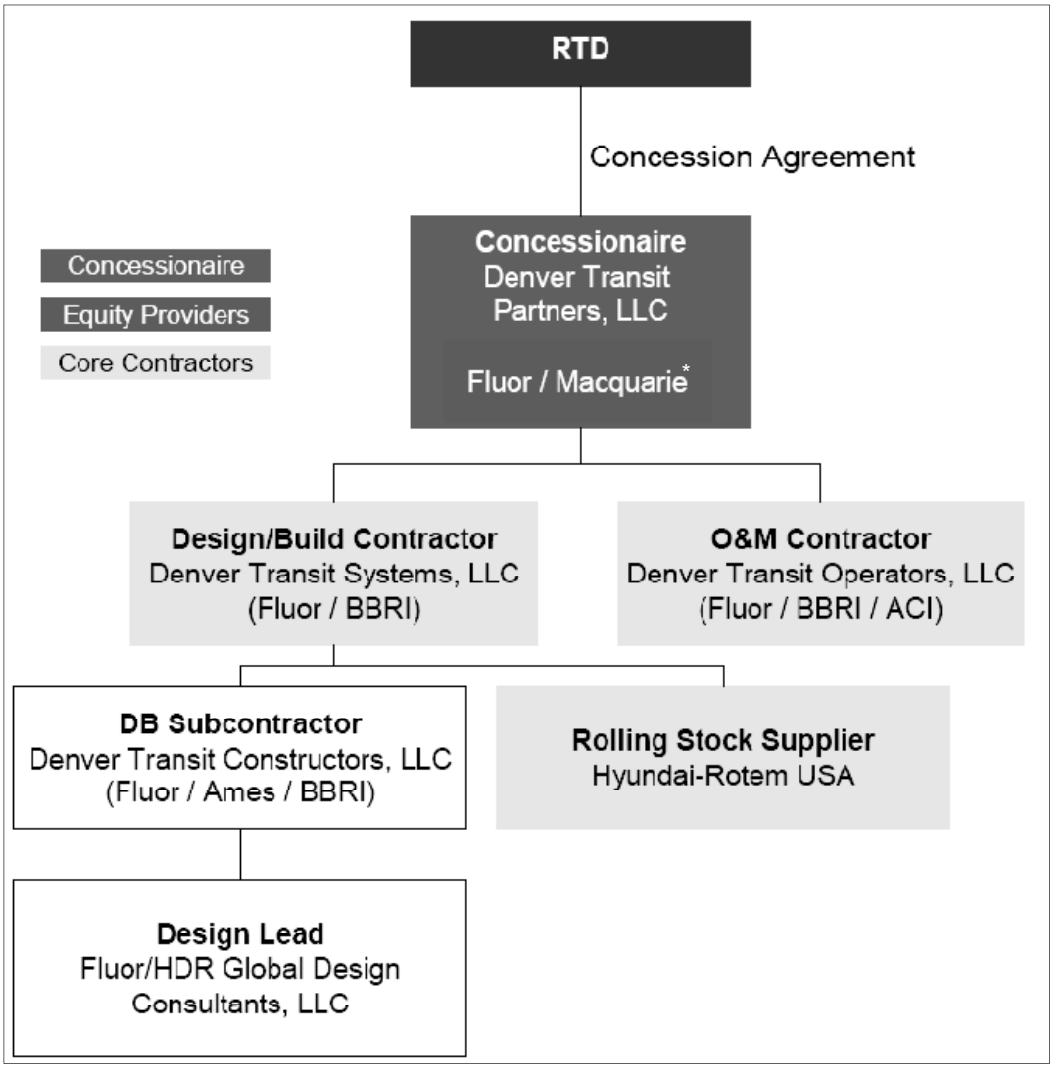
- Construction of the Gold Line and the NWES north of the CRMF, and
- Provisions of OMR for the Gold Line and NWES.

Phase 2 is anticipated to receive its notice to proceed in December 2011 and construction is anticipated to last for 4.5 years.

2 Team Assessment

Denver Transit Partners, LLC (DTP), is a Special Purpose Vehicle (SPV), established by Fluor Enterprises, Inc. (Fluor), and Macquarie Capital Group Limited (Macquarie), for the sole purpose of undertaking the Project.

Denver Transit Partners, LLC, has been established as a Delaware LLC and is registered to conduct business in the State of Colorado as Denver Transit Partners. The owners and members of Denver Transit Partners (DTP) are Fluor Enterprises, Inc., and Macquarie Capital Group Limited.



*Macquarie has entered into agreements to sell its equity stake at financial close

Figure 6 - Denver Transit Partners Team Organization

Other operational entities have been established to construct and operate the Eagle P3 Project; they are:

- Denver Transit Systems, LLC has been established as a Delaware LLC is registered to conduct business in the State of Colorado, and will do business as Denver Transit Systems (DTS). DTS, as the Design Build Contractor, is responsible for design engineering, rolling stock procurement, construction, and integration of each element. The owners and members of Denver Transit Systems (DTS) are Fluor Enterprises, Inc., and Balfour Beatty Rail, Inc. (BBRI), with Fluor as the managing partner.
- Denver Transit Constructors, LLC, has been established as a Delaware, LLC and is registered to conduct business in the State of Colorado, and will do business as Denver

Transit Constructors (DTC) as the design-build subcontractor. The owners and members of Denver Transit Constructors (DTC) are Fluor Enterprises, Inc., Balfour Beatty Rail, Inc., and Ames Construction, Inc. with Fluor as the managing partner. Ames will be responsible for the heavy civil works (track, roads and structures), while BBRI will be responsible for the electrification, traction power and systems (communications and signaling),

- Denver Transit Operators, LLC, has been established as a Delaware LLC and is registered to conduct business in the State of Colorado, and will do business as Denver Transit Operators (DTO). DTO will operate and maintain the assets of the Project, including the rolling stock. The owners and members of Denver Transit Operators are Fluor Enterprises, Inc., Balfour Beatty Rail, Inc., and Alternate Concepts, Inc. Balfour Beatty will be responsible for the maintenance and renewals of the right-of-way (track, structures, systems, traction power), while ACI will be responsible for operation of the system and maintenance of the rolling stock.
- Fluor/HDR Global Design Consultants, LLC, has been established as a Delaware LLC and is registered to do business in the State of Colorado as Fluor/HDR Global. The LLC is responsible for all the engineering required for the Project and is contracting with all necessary design consultants. The owners and members of Fluor/HDR Global are Fluor Enterprises, Inc., and HDR Engineering, Inc. under a 50/50 joint venture.

RTD has entered into a contract with DTP to finance, design, procure, construct, maintain and operate the Eagle P3 Project and, in turn, the following is a summary of the contractual relationships.

- DTP has awarded a contract to Denver Transit Systems, LLC (DTS), to design, procure and construct the Eagle P3 Project.
- DTS, the DB Contractor, has awarded a contract to Denver Transit Constructors, LLC (DTC), to design and construct the Eagle P3 Project, excluding rolling stock but retaining systems integration responsibilities.
- DTC, the DB Subcontractor, has awarded a contract to Fluor/HDR Global Design Consultants, LLC, to design the Eagle P3 Project (excluding rolling stock).
- DTS, the DB Contractor, has awarded a contract to Hyundai-Rotem USA, Inc., for the supply of rolling stock.
- Fluor/HDR Global will award contracts to PBS&J, Inc., Parsons Brinkerhoff, Gannett-Fleming, Inc., and SYSTRA, Inc. and all other engineering consultants for support services during the design and build of the Project.
- DTP has awarded a contract to Denver Transit Operators, LLC (DTO), to operate and maintain the Eagle P3 Project.

The above entities are expected to enter into a number of different sub-contracts for the purchase of labor, equipment, and materials. This will include the contract for supply of Railway System components.

Fluor is both vertically and horizontally integrated into virtually all of the operating companies. While it is unusual for projects in the United States to have a project sponsor and design build contractor having the same parent company, the LTA believes that this will serve as a benefit to the team. Fluor has equity in the project and JV partners in the DB Contract, DB Subcontract, Design and OMR contracts. The LTA believes this will help ensure that project efficiencies will be identified and incorporated into the project, possibly faster than if all the contracts were completely compartmentalized, and these relationships will also bolster accountability at all levels of the Project because the leads of the contracts will report to another Fluor led joint venture.

Table 1 - Denver Transit Partners Team Roles

Company Name	Role
Fluor Enterprises, Inc.	10% Equity Provider / Design-Build Lead /Design/ Operations and Maintenance
Macquarie Capital Group Limited	90% Equity Provider (Anticipated sale to John Laing and Uberior) / Financial Advisor
John Laing Investments Ltd.	45% Equity Provider (Anticipated purchase from Macquarie)
Uberior Infrastructure Investments	45% Equity Provider (Anticipated purchase from Macquarie)
Interfleet Technology, Inc.	Technical Advisor Rail Car Procurement
Balfour Beatty Rail, Inc. (BBRI)	Construction/ Operations & Maintenance
Ames Construction, Inc.	Construction
Alternate Concepts, Inc. (ACI)	Operations & Maintenance
Wabtec	Positive Train Control System Design and Implementation.
Fluor/HDR Global Design Consultants, LLC	Lead Design
BBRI **Gannett-Fleming** **Parsons Brinkerhoff** **PBS&J** **SYSTRA**	Infrastructure Design
Hyundai Rotem USA Corporation	Rolling Stock Supplier

2.1 DTP – Concessionaire and Equity Partners

Macquarie Capital Group Limited and Fluor Enterprises, Inc., have joined to be the equity providers for the DTP Project team with Macquarie in control with 90 percent interest in the SPV.

Fluor and Macquarie have separately worked on numerous P3 projects, and the Eagle P3 Project is the first time that the two are equity partners together for a project.

Macquarie is also acting as financial advisor to the consortium and Fluor will also be part of the DB Contractor (DTS), DB Subcontractor (DTC), the OMR Contractor (DTO), and Fluor/HDR Global (design consultant).

2.1.1 Macquarie Capital Group Limited

Headquartered in Australia, Macquarie Group Limited is a global provider of banking, finance, advisory, investment, and funds management services (ASX: MQG). As an owner and manager of community assets, Macquarie Group works closely with governments around the world to deliver vital services, including transport, railways, roads, airports, utilities, hospitals, schools and secure facilities. Macquarie Capital is a wholly-owned

subsidiary of Macquarie Group Limited and manages assets of approximately $120.2 billion as at September 30, 2009.[10]

For the purposes of this assessment, the LTA has focused on Macquarie's capacity to implement similar projects such as toll roads and transit. The relevant equity projects readily available for review include:

- The Brisbane Airtrain Rail Link in Australia. This project was completed in 2001, and is a 5.3 mile track between the Brisbane Airport and the Queensland Rail Network. Macquarie served as the Concessionaire Managing Partner and Financial Advisor.
- The Arlanda Express[11]. This is a 29.4 rail line linking the airport to Stockholm, Sweden. In 2004, the Macquarie European Infrastructure Fund purchased the rights to operate the trains, which it still does today.
- The Seoul Subway Line 9 Section 1. This is a 25.5 km subway line running east-west south of the Han River in Seoul, South Korea, linking six major business districts. Macquarie has roughly 25 percent of the equity interest and roughly 50 percent of the subordinated loan[12]. Macquarie is serving as a Concessionaire Partner and the Financial Advisor.
- The A-25 project, currently under construction, involves completing the construction of Autoroute 25 by building a 7.2-km stretch of highway between the Henri-Bourassa Boulevard interchange in Montréal and the A-440/A-25 interchange in Laval. Macquarie is serving as the sole Concessionaire and Financial Advisor.

2.1.2 Fluor Enterprises, Inc.

Fluor was founded as a construction company in 1912, and is one of the largest publicly traded engineering and construction companies in the world, with operations on six continents and approximately 42,000 employees world-wide.[13]

Fluor's history of engineering and constructing transportation projects includes P3 delivery methods of design-build and design-build-finance-operate-maintain execution approaches. For the purpose of this assessment, the following relevant equity projects show where Fluor acted as, or still is, a concession partner or managing partner.

- The High Speed Line – Zuid, Netherlands. It is a 62-mile rail infrastructure project with a capital cost of $1.43 billion for the superstructure and all systems (the government finances the substructure[14]). Fluor led an SPV (InfraSpeed) to design, build, finance and maintain the project with InfraSpeed providing $90 million in equity and the remainder raised by subordinated debt.
- The I-495 Capitol Beltway HOT Lanes, Virginia. This is a 14-mile widening of the Capitol Beltway, the freeway serving the Washington, D.C. area. In this project, Fluor provides equity and is the managing partner of the design-build contract. The $1.94 billion design-build contract broke ground in 2008 and is expected to be completed in 2013. Partially funded by private equity, the total length of the concession is 85-years, including 5-years for construction[15].
- The A8 Autobahn Improvements, Germany. This project comprises a widening of 23 miles of the A8 between Augsburg and Munich, expanding its present configuration from 2x2 lanes without emergency lanes to 2x3 lanes plus emergency lanes. In this project, Fluor provided 25 percent of the equity and is part (25 percent share) of the

[10] http://www.macquarie.com/us/index.htm
[11] http://www.arlandaexpress.com/textpage.aspx?page=85
[12] http://www.macquarie.com/kr/en/mkif/assets/seoul_sub_line9_s1.htm
[13] http://www.fluor.com/about_fluor/corporate_information/Pages/default.aspx
[14] http://www.hslzuid.com/hsl/uk/hslzuid/index/index.jsp
[15] http://www.fhwa.dot.gov/ipd/case_studies/va_capital_beltway.htm

construction joint venture. The value of the construction activities is approximately € 240 million. Construction completion is scheduled for December 2010.

- A59 Freeway Upgrade, Netherlands. This project is an upgrade of the N50 state highway into the A59 Freeway. This $206-million highway upgrade was the first road project in the Netherlands to be procured as a P3.

2.1.3 LTA Opinion

It is the LTA's opinion that Macquarie Capital Group Limited and Fluor Enterprises, Inc., are appropriately suited to serve as Equity Owners of the SPV, and Fluor with leading the DB Contractor, DB Subcontractor, and O&M delivery, and Macquarie leading the financing.

2.2 DTS – Design Build Contractors

The Design Build Contractor is a 50/50 joint venture between Fluor Enterprises, Inc., and Balfour Beatty Rail, Inc., (DTS), where Fluor will act as the managing partner. DTS is responsible for all design coordination and construction as well as for rolling stock procurement, commissioning and testing required during the construction period of the Project.

DTS has subcontracted all design and construction obligation for the Project to an integrated joint venture; composed of Fluor Enterprise, Balfour Beatty Rail, Inc., and Ames Construction, Inc. (DTC), with the rolling stock procured through a contract with Hyundai-Rotem USA Corporation.

2.3 DTC – Design Build Subontractors

The Design Build Subcontractor, Denver Transit Constructors, is a joint venture between Fluor Enterprises, Inc., Balfour Beatty Rail, Inc., and Ames Construction, Inc., in which Fluor will act as the managing partner. DTC is responsible for leading the design and construction of the entire Project and will subcontract all design responsibilities to Fluor/HDR Global, Inc. The members of DTC are providing support through the form of a Parent Company Guaranties, Performance Bonds, and Letters of Credit.

2.3.1 Fluor Enterpries, Inc.

Fluor has an extensive history of leading design build projects in the United States and overseas, and leverages this experience in leading design-build projects for the infrastructure and transportation sectors. Fluor has a recent history of delivering design-build projects with all of the core contractors in the Eagle P3 Project. It is the LTA's opinion that Fluor has the capacity and experience to lead the design build contract for the Eagle P3 Project.

2.3.2 Ames Construction, Inc.

Founded in Minnesota in 1960, Ames Construction has become one of the largest domestic-US heavy civil and industrial design-build general contractors. As a heavy civil contractor, Ames has experience in highway and freight rail construction[16] and the delivery of design-build projects[17]. Recently Ames completed 400 miles of track and sub-grade work for BNSF and UPRR. In the last 10-years, Fluor and Ames have successfully completed three design build projects, totaling nearly $800 million and were recently awarded the I-15 CORE Expansion Project, a value of $1.1 billion. It is the LTA's opinion that Ames Construction has the capacity and experience to serve as one of the leading civil works contractors on the Eagle P3 Project.

2.3.3 Balfour Beatty Rail, Inc.

BBRI is the U.S.-based rail engineering, construction, and maintenance services subsidiary of Balfour Beatty plc. Founded in 1909, Balfour Beatty plc is a global engineering,

[16] http://www.amesconstruction.com/markets/transportation.cfm
[17] http://www.amesconstruction.com/markets/design-build.cfm

construction, services, and investment organization headquartered in London, England specializing in large infrastructure and building programs. Based in Atlanta, Georgia, BBRI has extensive experience in the United States with track work and transit systems. BBRI also has the unique distinction of being RTD's current systems contractor for the FasTracks West Corridor project and was selected in September 2008 to provide 'On-Call Services' for RTD's existing light rail network. Over the last 10 years, Fluor and BBRI have jointly completed over $1 billion of design-build work. It is the LTA's opinion that BBRI has the capacity and experience to serve as the leading Railway Systems contractor on the Eagle P3 Project.

2.3.4 Relevant Design-Build Projects

The DTP core contractors have experience with heavy civil design-build projects. Fluor, Ames and BBRI also all have experience in rail projects, with Fluor and BBRI having extensive transit construction experience. Table 2 summarizes the highlighted projects that are either similar to the Eagle P3 Project, or show local knowledge or team collaboration. The triangles indicate if the contractor worked on the design-build project.

Table 2 - Highlighted Design Build Projects

Design-Build Project	Fluor	Ames	BBRI
Exposition Light Rail	▲		
Legacy Parkway	▲	▲	
E-470	▲	▲	
I-15 CORE Project	▲	▲	
Metro Eastside LRT Project			▲
Northeast Corridor Electrification			▲
SH-161	▲		▲

2.3.5 Design-Build Project Summaries

The following are the summaries of the projects identified in Table 2:

- The Exposition Light Rail project ($421 million) is an 8.5 mile extension to the Los Angeles Metro system scheduled for completion in June 2010. Fluor is a partner in the design-build joint venture with FCI Constructors who are leading the JV and are the managing contractors. Fluor is providing project controls, scheduling, QA/QC, document control and systems and civil works integration[18];
- The Legacy Parkway project (State Route 62) ($330 million), is a 14-mile stretch of four-lane highway designed to be an alternate roadway to I-15 in Weber and Davis County in the Salt Lake City Metropolitan Area. Fluor Ames Kraemer LLC was selected to design and build the project in 2001. Fluor was the managing partner and Ames was an equity partner[19];
- Phases 2 and 3 of the E-470 Toll Highway ($323 million) consisted of 29.3 miles of the Denver orbital road including 13 interchanges and 34 bridge structures. Fluor and Morrison Knudsen were partners and entered into a design-build agreement with the E-470 Public Highway Authority;
- The I-15 Corridor Reconstruction (CORE) Project ($1.1 billion) is 23 miles of additional lanes on both northbound and southbound I-15 between American Fork and Provo in

[18] http://www.fluor.com/projects/Pages/MiniProjectInfoPage.aspx?PrjID=105
[19] http://investor.fluor.com/phoenix.zhtml?c=124955&p=irol-newsArticle&ID=937880&highlight=

Utah[20]. Provo River Constructors LLC joint venture is led by Fluor that also included Ames. Fluor-HDR Global Consultants LLC is the design lead;

- The Metro Eastside LRT project (BBRI element: $92 million) is a 6-mile extension of the existing Gold Line rail corridor in Los Angeles. The project includes two 1.8-mile tunnels and eight new stations. BBRI was responsible for designing and building the train control, traction power and overhead catenary systems (OCS) and furnishing, installing and testing the communication, station and system wide electrical elements;
- The Northeast Corridor Electrification Project ($485 million) is the complete electrification of a 160-mile track corridor from New Haven Connecticut to Boston, Massachusetts for Amtrak. BBRI was the managing and lead partner of the design-build joint venture with Massachusetts Electric Construction Co.;
- The State Highway-161 Project ($450 million) is a toll road expansion in the Dallas Ft. Worth area. Fluor and Balfour Beatty (civil) were recently awarded the design-build contract for the project.

2.4 Design Build Designers/Engineers

Fluor/HDR Global Design Consultants, a joint venture between Fluor and HDR will lead the design-builder's design team and are responsible for managing all design consultants on the Project. Fluor/HDR will have additional design support from PBS&J, Gannett-Fleming, BBRI, Parsons Brinkerhoff and Systra Consulting.

2.4.1 Fluor/HDR Global Consultants, LLC

In 2008, Fluor and HDR entered into a strategic, long-term alliance through the formation of Fluor/HDR Global Consultants LLC with both having 50 percent ownership. The intent of the agreement is for Fluor/HDR to be the lead design firm to Fluor led design build teams. To date, the Fluor/HDR Global is executing work on the I-495 HOT Lanes and was recently awarded the I-15 CORE project.

2.4.2 HDR Engineering, Inc.

HDR is an employee-owned architectural, engineering, and consulting firm with a significant presence in Denver. HDR employs over 7,500 professionals in 165 locations worldwide, and is ranked No. 16 in ENR's 2008 "Top 500 Design Firms" and No. 8 in ENR's ranking of the "Top 50 Transportation Design Firms".

The following are selected projects that show HDR's experience in commuter rail design, design-build projects and local projects:

- The Sounder Commuter Rail Project is an 82-mile corridor to serve the Seattle metropolitan area from Everett to Lakewood. HDR prepared drawings, specifications and special provisions for design-build solicitation for the estimated $50 million extension;[21]
- The FasTracks West Corridor Project is a 12.1 mile light rail corridor between Denver's Auraria Campus and the Jefferson County Government Center in Golden, Colorado. HDR was a sub-consultant to David Evans & Associates providing final design of two major bridges; [22]
- The I-15 CORE Project (see project description above). HDR, in a joint venture with Fluor, will serve as the lead design organization of the $1.1 billion design-build project.

It is the LTA's opinion that both Fluor's and HDR's experience is adequate to serve as the Lead Engineer in the design-build contract on the Eagle P3 Project.

[20] http://www.i15core.utah.gov/
[21] http://www.hdrinc.com/13/38/1/default.aspx?projectID=722
[22] http://www.rtd-fastracks.com/wc_94

2.4.3 Identified Design Sub-Consultants

The team is using specialist consultants as and when needed. Table 3 identifies the known sub-contractor firms, and Eagle P3 Project design responsibilities. Additionally, there are DBE/SBE requirements for the Project (refer to section 2.8 of this report).

Table 3 - Identified Design Sub-Consultants

Identified Consultant	Eagle P3 Design Responsibility
Gannett Fleming	CRMF Planner/Architect
PBS&J	Select Bridges
Parsons Brinkerhoff	Systems Design
SYSTRA	Operational Service Performance Simulations

2.4.3.1 Gannett Fleming

Gannett Fleming has over 2, 000 employees in 55 offices throughout the United States and Canada offering a full service of consulting. Of relevance to the Eagle P3 Project are their services in planning, transportation and facilities design, including architecture of transit maintenance facilities[23].

2.4.3.2 PBS&J

The PBS&J Corporation, was founded in 1960 in Florida and now has almost 4,000 employees and 80 offices throughout the United States and abroad[24]. The corporation is organized into four business operations with transportation the largest segment at almost 40 percent of its revenue.

2.4.3.3 Parsons Brinkerhoff

Founded in 1885 and headquartered in New York, Parsons Brinkerhoff (PB) has over 150 offices worldwide[25]. PB provides development and operation expertise for infrastructure projects. Services include strategic consulting, planning, engineering, and program and construction management[26]. PB is an independent wholly owned subsidiary of Balfour Beatty plc as of late 2009.

2.4.3.4 SYSTRA Inc.

SYSTRA was found in 1961 by the merger of SOFERAIL and RATP, headquartered in France. SYSTRA specializes in urban transport engineering and rail and intercity engineering[27] in offices worldwide. SYSTRA will be responsible for performing operational service performance simulation showing the characteristics of the vehicles and systems infrastructure under a range of normal and abnormal scenarios to validate the commuter rail operations approach. SYSTRA perform these simulations using an in-house software program called RailSim which is proven and widely used in the transit industry.

2.4.3.5 Lender's Technical Advisor's Opinion

To date, DTP is still in negotiations with several different design sub-contractors, therefore a final organizational chart is not available. However, the LTA is satisfied that the sub-contractors selected to this point are capable of performing the design of this project.

2.5 Wabtec Corporation – Positive Train Control

Wabtec Corporation (Wabtec) was formed in 1999 when Westinghouse Air Brake Company and Motion Power Industries merged[28]. Headquartered in Wilmerding, Pennsylvania,

[23] http://www.gannettfleming.com/aboutus.htm
[24] http://www.pbsj.com/OUR_CORPORATION/Pages/Our_History.aspx
[25] http://www.pbworld.com/global/worldwide/
[26] http://www.pbworld.com/
[27] http://www.systra.com/Background
[28] http://www.wabtec.com/home.asp

Wabtec has over 5,000 employees that manufacture a range of systems and sub-systems for the freight rail and transit Industries.

Wabtec will be supplying the Positive Train Control System (PTC) for the Eagle P3 Project. This separate overlay to the train control system that is mandated by the FRA. The Class 1 freight railroads, such as UP and BNSF, will be using Wabtec to implement their integration of the national PTC system.

2.6 Rolling Stock & Procurement

DTS approached rolling stock procurement by selecting a manufacturer late in the proposal process, rather than having a manufacturer selected and be part of the Core Contractors. This allowed DTS to wait while RTD finalized their requirements for the Project, ultimately settling on an EMU only system rather than a mixed fleet with Diesel Multiple Units (DMU's).

DTS conducted a thorough technical due diligence process led by Interfleet Technology, Inc. and Raul V Bravo of five manufacturers focusing on the existing EMUs already in production. Three suppliers were shortlisted, and ultimately Hyundai-Rotem was selected as providing the best value having built a number of cars for use in North America, and presently building cars for the SEPTA system in a new plant located in Philadelphia. The cars for the Project will be similar to the SEPTA cars, and will be built in the Rotem facility in Philadelphia.

2.6.1 Interfleet Technology, Inc.

Interfleet Technology, Inc., supported by Raul V Bravo as a sub-contractor, managed the rolling stock procurement process for Denver Transit Systems (DB Contractor) during the bid phase of the Project and will be a sub-consultant to DTS through construction. Interfleet Technology is a privately owned, international rail vehicle and systems engineering consulting firm providing services to transit clients for over 30 years. In the UK, it holds certification as a "Notified Body", indicating that it is one of the technical firms certified to perform and deliver safety cases for rolling stock to operate on the British and European railway systems.

Interfleet provides consultancy on every type of rolling stock, including high speed rail, commuter rail, light rail, freight and personal rapid transit systems. Additionally, Interfleet is a leading consultant on the full vehicle life cycle from industrial design, procurement management, and support to commissioning and maintenance management.

2.6.2 Raul V Bravo and Associates

Raul V Bravo and Associates (RVB), Inc., have advised on Rolling Stock procurement along with Interfleet. RVB will stay involved at the Design Build Contractor level as a consultant during the construction period.

RVB are a Transportation Planning and Engineering Consulting firm providing services in planning, research, design, and development of transit vehicles and transportation systems. Some of their specialty services related to transit vehicles include: design and engineering, testing and commissioning, system integration, technical writing, specification development, safety and security, communication systems. RVB served as a supplier's technical consultant for the procurement of the FRA compliant SEPTA rolling stock in Pennsylvania.

2.6.3 Hyundai-Rotem USA Corporation

Hyundai-Rotem, USA (Rotem USA), is headquartered in Philadelphia, Pennsylvania, and is the American subsidiary of Rotem Co. (Rotem), a Division of the Hyundai Motor Group. Rotem was formed when Hyundai took over the rolling stock manufacturing capabilities of Daewoo, making it the sole rolling stock manufacturer in South Korea. Rotem specializes in the manufacture of light rail vehicles, electric multiple units, diesel multiple units, high speed trains and magnetically levitated vehicles.

The rolling stock selected by DTP is based on the 120 Silverliner V Passenger EMU currently being produced at their USA manufacturing facility in South Philadelphia. The cars selected for the Eagle P3 Project are almost identical to those being produced now.

The Hyundai Rotem facility is located adjacent to the port in Philadelphia and has a manufacturing space of 265, 000 square feet on 11.5 acres. This facility was first opened to manufacture 120 Silverliner V Passenger EMU rail cars for the Southeastern Pennsylvania Transportation Authority (SEPTA). It is currently manufacturing 107 double-decker cars for the Southern California Regional Rail Authority for operation on Metrolink routes. The following are a few projects where Rotem provided EMU rolling stock[29]:

- SEPTA-120 Silverliner V rail cars, Pennsylvania, USA (Rotem USA)
- Seoul Metro Line 9 – 96 rail cars, Seoul, South Korea (Rotem)
- Incheon International Airport – 36 rail cars, Seoul, South Korea (Rotem)
- Brazil Central – 80 rail cars, Rio de Janerio, Brazil (Rotem)
- São Paulo Metro Line 4 – 84 rail cars, São Paulo, Brazil (Rotem)
- Canada line EMU Project – 40 rail cars, Vancouver, British Columbia, Canada (Rotem)[30]

2.6.4 Lender's Technical Advisor's Opinion

Members of the LTA staff have previous working experience with Interfleet (in the UK), and are personally familiar with the firm's staff and their capabilities. The LTA is highly confident of their capabilities and confirms their ability to conduct the vehicle assessment on this Project.

The LTA is satisfied of the capabilities of Raul V Bravo and Associates, Inc., and confirms their ability to support the vehicle assessment on this Project.

The LTA is currently serving as the Independent Engineer for the Operating and Maintenance Concession for the São Paulo Metro Line 4 Project, for which Hyundai-Rotem are the suppliers of EMU rolling stock. The LTA's experience of working with Hyundai-Rotem has been positive, and the LTA notes the high quality of design and manufacturing processes, and of the vehicles delivered to-date. Testing and commissioning of these vehicles is currently underway. Members of the LTA staff have previous working experience with Hyundai-Rotem, and in all cases the experiences have been positive. The LTA is confident of their capabilities and confirms their ability to supply vehicles of the necessary quality and design to perform on this Project.

2.7 DTO – Operations and Maintenance Joint Venture

The operation, maintenance and renewal (OMR) has been contracted for the life of the concession to an integrated joint venture formed between Fluor Enterprises, Inc., Balfour Beatty Rail, Inc., and Alternate Concepts Inc. (ACI) (DTO). The members of DTO will provide support through parent company guaranties, and letters of credit.

The joint venture is fully integrated although each member has a specific area of expertise. ACI has experienced staff in transportation, supervision, and control and rolling stock maintenance, while Fluor and BBRI have extensive experience in facility and infrastructure management.

2.7.1 Fluor Enterprises, Inc.

Fluor will provide management and administrative support to DTO. Fluor's experience in maintenance and operations includes both linear infrastructure (roadways and railways) as well as manufacturing and industrial applications.

[29] http://www.hyundai-rotem.co.kr/eng/
[30] http://www.industrykorea.net/070330_rotem_pdf/060913-rotem_nr.pdf

Fluor (operating as Fluor Infrastructure B.V.) is a member of the InfraSpeed joint venture with a 25-year maintenance phase of the HSL-Zuid line, with a performance target of at least 99 percent during operational hours of the 25-year maintenance period. Commercial operations commenced on this line in late 2009.

2.7.2 Balfour Beatty Rail, Inc.

Balfour Beatty Rail, Inc., will provide right-of-way maintenance within DTO. BBRI has an extensive history of rail maintenance services including direct fixation, embedded, and ballast track systems, signaling, communications, and electrification systems.

Balfour Beatty's global presence in rail maintenance in contracts is measurably larger in Europe than it is currently in North America. In the UK, Balfour Beatty (as Balfour Beatty Rail UK) is one of the largest providers of maintenance and renewal to Network Rail, the owner of the UK railway infrastructure system.

BBRI is fully capable to provide complete maintenance and renewal services for all elements of the railway infrastructure system.

2.7.3 Alternate Concepts, Inc.

ACI, based in Boston Massachusetts, has been in operation for 19 years and is one of the largest U.S. - based private operator of passenger rail services. ACI has experience in mobilizing, starting-up, operating and maintaining rail transportation services. Relevant projects include:

The following projects highlight where ACI has a leading role in providing operational services for transit agencies:

- The MBTA Commuter Rail Services is a 5-year $1.8 billion O&M contract for the Massachusetts Bay Transportation Authority awarded to the Massachusetts Bay Commuter Railroad Company. It has over 137 stations and serves over 140, 000 passengers daily.
- Tren Urbano is the transit system in San Juan, Puerto Rico, where ACI operates and maintains the system under contract to the Puerto Rican government. The $343 million O&M contract is for five years, starting in 2005.
- Valley Metro Rail is the light rail system in Phoenix, Arizona. ACI was awarded the $27 million operations contract through competitive bidding. The system includes 20-miles of track and 28 passenger stations.

2.7.3.1 Technical Advisor's Opinion

The LTA is satisfied that Fluor, Balfour Beatty and ACI have the capability for their roles in management, right-of-way maintenance, operation and rolling stock maintenance of this Project.

2.8 DBE/SBE Requirements

Any project that receives federal funding (grants) is required to comply with the Federal Highway Administrations Regulation 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial assistance Programs".

RTD has specified DBE and SBE goals for the Eagle P3 Project in both the Design-Build Contract and the O&M Contract. At least 19 percent of the calculated contract dollar value related to design services and at least 20 percent of the calculated contract dollar value related to construction and/or supplies shall be performed by DBE firms. At least 19 percent of the calculated contract dollar value related to design services and at least 18 percent of the calculated contract dollar value related to construction and/or supplies be performed by SBE firms. In relation to Operation and Maintenance, the concessionaire shall make a good faith effort to have at least 17 percent of the calculated dollar value of services performed by SBE firms.

2.8.1 Romero and Wilson

Romero and Wilson (R&W) is a locally owned DBE/SBE firm specializing in public outreach. R&W reports to the DTP team and is in charge of the DBE/SBE outreach for the Project. Romero and Wilson have significant experience in performing public outreach for local transportation projects for RTD, the City and County of Denver and the Colorado Department of Transportation.[31]

2.8.2 Outreach and Participation

The LTA has reviewed DTP's outreach and participation program and is satisfied that DTP has established a robust approach to outreach to the DBE/SBE community.

The LTA was informed that, as of May 6, 2010, DTP is still intending to meet the DBE/SBE goals outlined in the proposal. Currently, DTP has committed over $100 million in DBE/SBE contracts, with additional commitments following award of the Project contract award.

2.9 Key Personnel and Relevant Experience and Continuity

The LTA has reviewed the resumes for the Key Personnel included by DTP in its Technical Proposal and finds, in general, they have sufficient experience with similar roles on complex large infrastructure projects.

2.10 Work Approach

The LTA observed the team organization during the bid process. It attended general coordination meetings as well as specialized technical meetings that were held throughout the bid period to develop specific aspects of the bid requiring coordination between different groups within the consortium.

No particular issues have been identified to date with respect to DTP (including its constituent companies) or with respect to identified third parties that would cause Arup concern with respect to DTP's ability to undertake the project and meet the obligations of the concession Agreement. The LTA has observed good working relationships to date, and that various Management Plans provide adequate guidance on how to manage issues as they arise.

2.11 Risk Management Process

The LTA has reviewed DTP's risk management process, and is satisfied that it is a well defined, managed process, consistent with the progress of the design to date, and adequate for that purpose.

The LTA has seen the risk register up to the February 18, 2010 update, and the output and methodology of the contingency estimation process as of March 31, 2010.

Once a risk was identified, the LTA observed that it was maintained for the duration of the proposal period. That is, it remained on the risk register with the following possible dispositions:

- It was closed after initial vetting,
- It was allocated to potential schedule delay, and
- It was allocated to potential cost contingency.

If a risk was allocated to potential schedule or cost contingency, it was evaluated against the design (or design alternatives) to determine if the current schedule estimate and/ or the design already mitigates the risk as stated. Since there were and continue to be aspects of the design that are fluid, this decision to close the risk was considered tentative and open for revisiting should the design change.

[31] http://www.romerowilson.com/rwsite.html

Risks were also compared to the cost estimate to ensure that the estimate covers them.

The LTA is comfortable that DTP has applied a robust and well documented risk management process, and that the process includes both cost and schedule contingency.

2.11.1 Assessment of Process

The risk manager assigned to the project is experienced, and uses an existing process developed by Fluor. The LTA observed the initial workshop and a number of the subsequent weekly meetings. The workshop and weekly meetings included senior project management and project line management.

The LTA did not observe deficiencies in the risk closure process, and observed a good balance of optimism and pessimism that led to healthy debate. The LTA is comfortable that risks were considered in a balanced approach.

2.11.2 Adequacy of Risk Register

The risk register was broad in scope and covers, Design Build, Rolling Stock, and Operations, Maintenance and Renewal (OMR). Each of the broad areas included event and estimate risks. All risks seen by the LTA in the risk register were enumerated and scoped.

The risk elicitation process included the DB and OMR teams, and separate risk registers were developed for design, construction and OMR risks.

The risk "Terms and Conditions" related to sub-contracts was broadly stated and lacked specificity. The LTA noted this to the DTP risk manager who did not disagree. The resulting risk to the Concessionaire is that, without a clear understanding of the contract Terms and Conditions and how they apply to subcontractors, the Concessionaire may experience a high rate of claims from subcontractors. This could result in additional cost and/ or schedule delays. This risk is manageable.

Real estate cost was not included as a risk, and the LTA understands that RTD is responsible for providing land and access. In addition, it is understood that RTD is acquiring land to accommodate future expansions. The LTA agrees that there is low risk to the Concessionaire due to the relief regime, and real estate availability was included in the schedule.

2.11.3 Ownership of Risk

The LTA observed ownership of risk clearly identified in the risk register. The register assigned a single owner to each item, which the LTA considered key to minimizing potential management overlaps and providing clear responsibility for mitigating individual risks to only one person.

2.11.4 Summary of LTA Opinion

The LTA provides the following opinion of the DTP's risk management process.

- The risk management process has been developed by Fluor, is well defined, incorporates lessons learned from projects of similar size and complexity, and has been appropriately managed.
- Participants in the risk management process were appropriately experienced to understand, identify, and properly evaluate relevant risks to the Project, including design, construction, and OMR risks.
- The risk registers used have been appropriately developed, from risk identification to potential mitigation.
- The risk register provided a comprehensive description of risks, and DTP was treating the register and process requirements as "living", that is, DTP indicated that it will continue to manage risks throughout the life of the project.

- Mitigations and contingencies were planned and subject to review and updates, and owned by a single responsible person.
- The risk management process considered a broad range of technical issues, including but not limited to, geotechnical issues, track, stations, yards, shops, systems, signaling, rolling stock and integration.
- The risk management process also considered business risks, including construction costs, OMR costs, contracting (including materials, labor and subcontractors), and escalation.

3 Technical Review of Concession Agreement

The Concession Agreement is the primary document that governs the relationship between the RTD and the Concessionaire. The Concession Agreement was signed between the Parties on July 9th, 2010.

The Concessionaire will be required to, in accordance with the Concession Agreement:

- Design and construct the East Corridor, the Gold Line Corridor and NWES rail projects, including all planned commuter rail stations and all necessary integrated communications and signaling systems, and the CRMF to defined technical criteria, and the entire system operational by the Revenue Service Target Date;
- Procure and commission the Rolling Stock for the East Corridor, Gold Line Corridor and NWES to defined local and national design criteria attached to the CA;
- Procure and install the Traction Electrification System and communication and signaling systems for the DUS Rail Segment in accordance to defined technical criteria; and
- Provide the commuter rail services to a defined timetable, operate and maintain the Rolling Stock to a defined level of repair and cleanliness, and operate and maintain the Commuter Rail Network to a defined level of repair and cleanliness for 40-years[32] post construction.

The LTA reviewed the final version of the Concession Agreement (CA) executed on July 9, 2010.

The following section provides comments with respect to the provisions of the CA most relevant to the highest DB and OMR risks. As such, we have reviewed the CA and comment in particular the following key sections:

- Section 30 and Attachment 11 – Service Payments
- Section 38 – Relief Events
- Section 39 – Force Majeure
- Attachment 6 – Contract Data Requirements

The LTA has also reviewed additional sections of the CA dealing with topics of general importance to the Project. These areas include; termination, compensation following termination, land (right of way), permits, utilities, condition of assets at time of handover, uninsured risks and insurance cost sharing, effective dates, quiet enjoyment, conditions precedent, rolling stock termination, changes, dispute resolution and service payment adjustments.

3.1 Service Payment Deduction Regime

The service payment deduction regime specifies the methods and calculations that determine performance adjustments to monthly service payments to the Concessionaire.

3.1.1 Service Payments

Service Payments are made each month during the operating period and are calculated on the basis of 1) the Availability Adjusted Base Service Payment, 2) a performance deduction, and 3) a special events adjustment in accordance with the formula shown below:

[32] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

$$SP_{mn} = AABSP_{mn} - PD_{mn} + SEA_{mn}$$

where:

$AABSP_{mn}$	=	Availability Adjusted Base Service Payment
PD_{mn}	=	Performance Deduction
SEA_n	=	Special Events Adjustment

In all formulae, the subscripts represent month (*m*) and year (*n*) of the contract year.

3.1.2 Availability Adjusted Base Service Payment

The Availability Adjusted Base Service Payment (AABSP) is a combination of an adjustable Base Service Payment plus a fixed Base Service Payment. The adjustable Base Service Payment is modified by an Availability Factor that reflects:

- the availability of rolling stock
- the on-time availability of trains at stations, and
- the availability of stations.

The specific formulae are shown below:

$$AABSP_{mn} = \left(BSP_{adj\,mn} \times AF_{mn}\right) + BSP_{fix\,mn}$$

where:

$BSP_{adj\ mn}$	= Adjustable Base Service Payment
AF_{mn}	= Availability Factor
$BSP_{fix\ mn}$	= Fixed Base Service Payment

$$BSP_{adj\,mn} = \frac{D_m}{365} + BASP_{adj\,n}$$

where:

D_m	= number of days
$BASP_{adj\ n}$	= Adjustable Base Annual Service Payment

$$BSP_{fix\,mn} = \frac{D_m}{365} + BASP_{fix\,n}$$

where:

D_m	= number of days
$BASP_{fix\ n}$	= Fixed Base Annual Service Payment

3.1.3 Availability Factor

The Availability Factor is determined by the Availability Ratio. The relationship between the Availability Factor and the Availability Ratio is shown below in Figure 7. As stated in Attachment 11, availability ratios of less than 70 percent shall be given an Availability Factor of 80 percent.

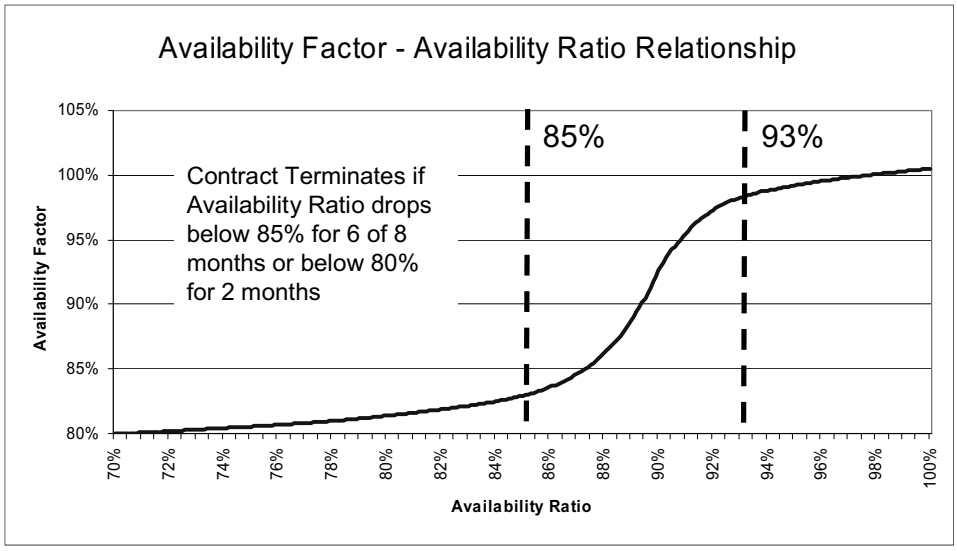


Figure 7 - Availability Factor Relationship to Availability Ratio (Broad Scale)

When the Availability Ratio falls below 97.7 percent the Availability Factor falls below 100 percent; therefore, the adjustable portion of the Base Service Payment is reduced and the Concessionaire's monthly payments are reduced. When the Availability Ratio begins to fall below 93 percent the Availability Factor (and thus payment adjustments) begins to fall at a greater rate.

If the Availability Ratio is above 97.7 percent, the Availability Factor can rise up to a maximum of 100.5 percent meaning that the adjustable portion of the Base Service Payment is augmented, as shown in Figure 8. Accordingly, the Concessionaire has the ability to earn additional revenue if the Availability Ratio is above 97.7 percent.

If the Availability Ratio drops below 80 percent in two or more months between the Revenue Service Commencement Date and Final Completion Date (per corridor), or drops below 85 percent for any six months in an eight month period, this is considered a Concessionaire Termination Event.

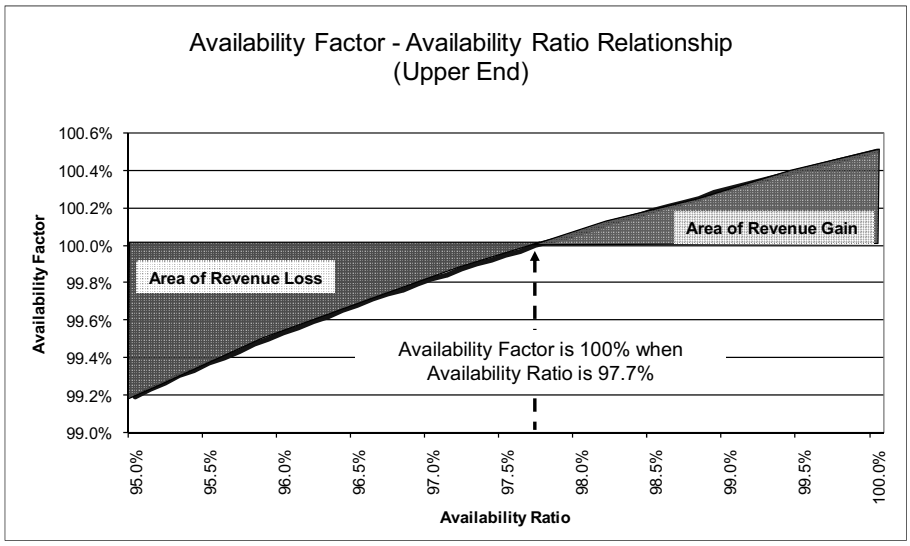


Figure 8 - Relationship of Availability Factor and Availability Ratio (Upper End)

The LTA considers the method of calculating the Availability Factor as reasonable.

3.1.4 Availability Ratio

The Availability Ratio reflects:

- the availability of rolling stock
- the availability of trains at stations, and
- the availability of stations.

The specific relationship is shown below:

$$AR_{mn} = \frac{(3 \times RSA_{mn}) + (2 \times OTA_{mn}) + (1 \times SA_{mn})}{6}$$

where:

RSA_{mn} = the Rolling Stock Availability

OTA_{mn} = the On Time Availability

SA_{mn} = the Station Availability

3.1.5 Rolling Stock Availability

Rolling Stock Availability is the ratio of Compliant Car Miles to Scheduled Car Miles as shown below:

$$RSA_{mn} = \frac{CCM_{mn}}{SCM_{mn}}$$

where:

CCM_{mn} = Compliant Car Miles is the sum of all miles operated by Compliant Cars

SCM_{mn} = Scheduled Car Miles is the sum of all miles scheduled for operation by Cars in accordance with the Operating Timetable.

Compliant Car miles are the number of Compliant Cars multiplied by the number of miles they operate. The number of Compliant Car Miles cannot exceed the number of scheduled car miles. Compliant Cars must meet standards described in the O&M Specifications to be considered compliant. A car will be considered non-compliant if deficiencies are not remedied in the specified time frame. The standards that must be met include both mechanical standards (doors, windows, HVAC system, controls) and passenger environment standards (graffiti, clean seats, and clean floors) for the car interior.

The LTA has reviewed the Compliant Car Standards and considers them reasonable. The availability of extra equipment stationed at either the Denver Union Station (DUS) and/or the Car Repair Maintenance Facility (CRMF) will mitigate most effects of a defect found en-route during operations within the required remedy period.

3.1.6 On Time Availability

On Time Availability is a combination of factors as shown below:

$$OTA_{mn} = \frac{TOTP_{mn} - [TMT_{mn} + (2 \times TEMT_{mn})]}{TOTP_{mn}}$$

where:

$TOTP_{mn}$ = the Total On Time Performance is the sum of the number of times trains in revenue service are scheduled to depart from the initial terminal, depart from selected intermediate stations and arrive at the final terminal.

TMT_{mn} = the Total number of Missed Times, being the number of trains in revenue service:

(i) departing before the schedule departure time
(ii) departing late by 5 minutes or more
(iii) arriving late at the arrival Terminal Time Point by 5 minutes or more
(iv) delays caused by an 'exclusion event' are not included in these calculations.

$TEMT_{mn}$ = the Total number of Extended Missed Times, and is similar to TMT except that delays are counted only if the delay is 15 minutes or more.

Delay events are counted only at initial and final terminals and for designated intermediate stations which are Pecos (Gold Line), Central Park (East Line) and 40th and Airport (East Line). Excluded delays include Force Majeure Events, virtually any delay caused by a third party, and any delay where the root cause was an excluded event.

The LTA considers the calculations used for the On Time Availability factor to be reasonable.

3.1.7 Station Availability

Station Availability is the ratio of the number of available station hours to scheduled stations hours as shown by the formula below:

$$SA_{mn} = \frac{SSH_{mn} - SDH_{mn}}{SSH_{mn}}$$

where:

SDH_{mn} = Station Downtime Hours

SSH_{mn} = Scheduled Station Hours

Station Downtime Events include the following events:

- All elevators are not functioning
- 75 percent of the lighting is non-functioning
- Snow and/or ice accumulation is such that platforms are unsafe to use
- Any event that makes the station inaccessible or unsafe to enter or leave

The LTA considers the performance criteria for Station Availability to be reasonable and realistically achievable by the Concessionaire using good management practices. The most likely Station Downtime Event that could occur (that is not a Force Majeure event) would be an elevator malfunction. The LTA has been advised that the Concessionaire intends to install hydraulic elevators that are considered highly reliable and require minimal maintenance and will reduce the risk of significant outages.

3.1.8 Performance Deduction for STOP Points

Performance Deductions are made for non-compliance for Service Task Order (STO) standards that are specified in the Concession Agreement. The Concessionaire is required to provide a system for compiling and tracking STO's. STO's are defined for a number of system elements along with standards, remedy times and 'STOP' points that are assessed when the STO is not remedied within the specified remedy time. These focus on the overall functionality of the commuter rail network whereas the Rolling Stock Availability focuses on the cars themselves. The formula for this calculation is shown below:

$$PD_{mn} = PDP_{mn} \times BSP_{adj\ mn}$$

where:

PDP_{mn} = the Performance Deduction Percentage that corresponds to the STOP Points accrued by the Concessionaire

$BSP_{adj\ mn}$ = the Adjustable Base Service Payment

System elements covered by Service Task Orders include:

- Elevators (minimum of one elevator per station functional, inspections, cleanliness)
- Rolling Stock (inspections, cleanliness, seats, CCTV, passenger counter, graffiti)
- Infrastructure (preventative maintenance inspections)
- Life Safety Systems (fire extinguishers, fire alarms, emergency doors, fire hydrants)
- Facility and Stations (good repair, litter, inspections, graffiti, CCTV, signage, lighting, ADA ramps)
- Waste management (trash bins and dumpsters, pest control)
- Snow and ice removal
- Fare enforcement (on-board inspections, fare sweeps, fare data, evasion rate)

Service Task Order Points (STOP) are escalated by 125 percent if the STO remedy time is exceeded by 12 hours. Further STO Point escalation is incurred if the remedy time is further exceeded in each of four more 12 hour periods. If the STO is not remedied after a) four 12-hour periods or b) repeated STO events, the Concessionaire is required to develop a Remedial Action Plan. The relationship between number of STO Points and the percent deduction is shown in Figure 9. As stated in Attachment 11 of the Concession Agreement, there will be no deduction for up to fifty STO Points per month and is capped at 5 percent deduction at 279 STO points or greater.

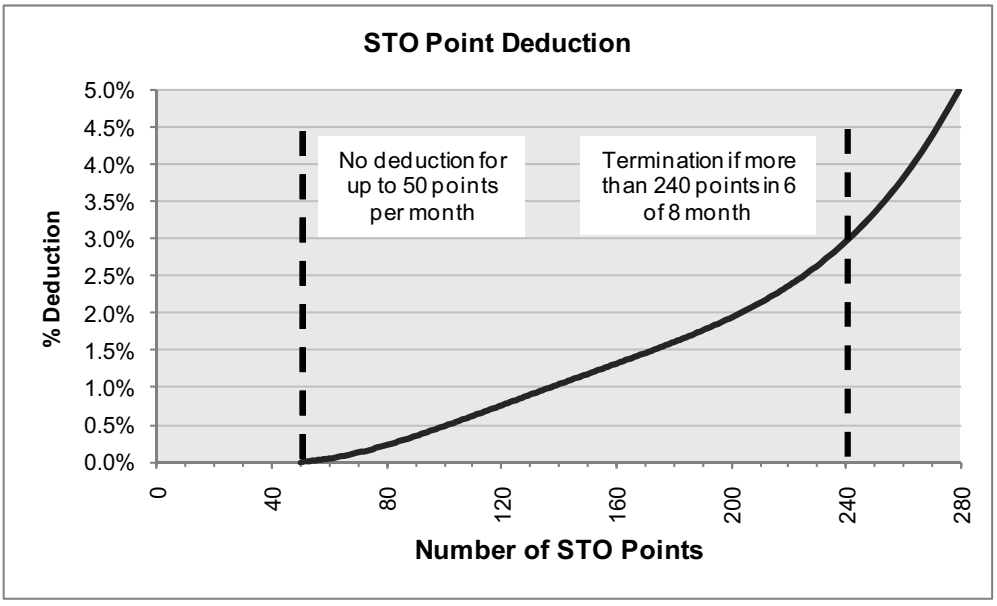


Figure 9 - STO Point Deductions

The LTA has reviewed the Service Task Orders, standards, and remedy times and considers the standards and remedy times reasonable performance requirements that can be realistically achieved by the Concessionaire using good management practices.

3.2 Service Payment Sensitivity Analysis

3.2.1 Performance Regime Modeling

The LTA developed a performance penalty regime model, based on the performance regime algorithms to estimate the total cost effect of several potentially material service failure scenarios. The total cost effect includes the loss of revenue due to performance penalties plus the additional cost of providing substitute bus services (as required by the O&M Contract).

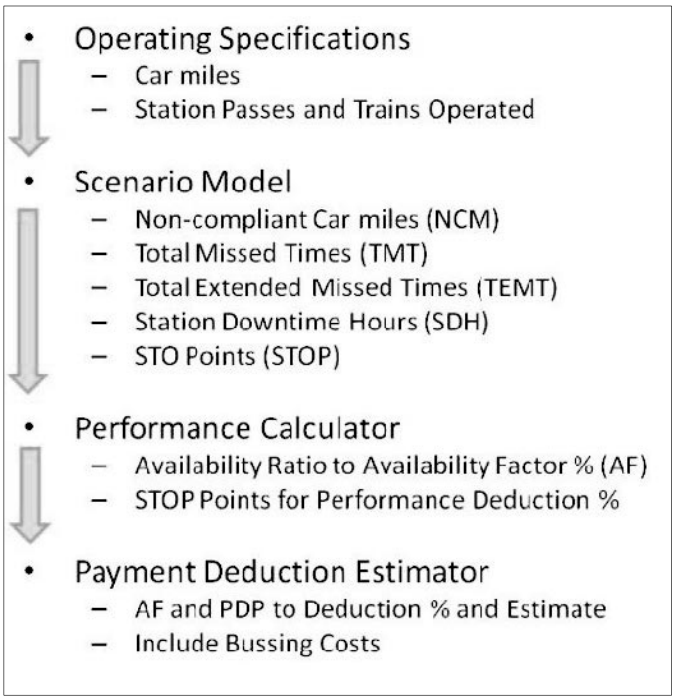


Figure 10 - Performance Modeling Steps

The performance deduction portion of the model estimates the aggregate effect to the Availability Adjusted Base Service Payment (AABSP) of high consequence events on Rolling Stock Availability, On-Time Availability, Station Availability and Service Task Orders.

To test the sensitivity of the performance regime, the LTA reviewed 36 different scenarios that would cause service payment penalties, and from these the LTA selected several high consequence material events that have some likelihood of occurring. Low consequence events had relatively no effect and represent little risk. Very low probability high consequence events (e.g., system shutdown for one month) were excluded as unrealistic risks.

The year 2020 was chosen as a “simulation year” because the OMR contractor will have just started operating 4-car trains, warranties on most equipment and infrastructure will have expired, and the system components would start to experience a higher level of stress.

The LTA considered a number of system characteristics and contract terms in constructing high consequence material event scenarios that have some likelihood of occurring. These include:

- The system is largely closed with a relatively uncomplicated design. OMR commuter trains will operate only over the network infrastructure, and network infrastructure will only serve OMR commuter trains.
- With the exception of the Denver Union Station, the system is designed as a complete network. There are no risks from different designs developed for different initial purposes and then made to operate together.

- The infrastructure and rolling stock are new at the start of service, which eliminates risks from unknown defects due to previous wear and tear.
- The OMR Contractor has direct control over most types of performance adjustments and can apply emphasis where needed to correct performance concerns.
- The OMR Contractor will have a real time performance monitoring system to identify performance issues as they develop along with daily metrics to target and correct performance problems before they accumulate significant penalties.
- The Concession Agreement provides Force Majeure protection for most external risk events.
- The Concession Agreement provides for changes in payment terms for major changes in requirements.

The majority of the material event scenarios include variations of the following:

- **Total system shutdown for 24 hours:** Due to a major control system failure or non-Force Majeure weather event. No commuter rail services would be provided for the entire period. The LTA considers this an unlikely scenario.
- **Single track outage for 10 hours:** Due to an emergency field defect found during an early morning inspection. The field defect would require major work such as rail or pantograph replacement, and the work time window would extend into the service period for 10 hours, shutting down services from the single track section to the end of the line affected. The LTA considers this an unlikely scenario.
- **Station shut-down for 100 station hours:** During the month due to extended repairs from elevator malfunction. The LTA considers this an unlikely scenario.
- **Single track outage for seven days:** Resulting from a major disruption such as derailment or structural defect requiring extended investigation, clearing, and/or repairs. The LTA considers this a very unlikely scenario. Other than an extended Force Majeure event not under the control of the OMR Contractor, the LTA considers that such outages can be managed and corrected in less time. Proper preparation of labor, materials and subcontractors for potential emergencies would usually be corrected within one or two days.

The LTA modeled these event scenarios for Phase 1 operation (i.e., East Corridor only) and Phase 1 and 2 operations (i.e., East Corridor, Gold Line and NWES) to determine cost effects under these two different payment scenarios. This analysis assumes an annual Concessionaire payment of $148.6 million to the Concessionaire and $40.6 million payable to the OMR Contractor for Phase only, and an annual Concessionaire payment of $117 million to the Concessionaire and $51.2 million payable to the OMR Contractor for Phase 1 and 2.

The Phase 1 only material loss event for the above listed scenarios results in a total payment deduction of 18.13 percent, or $2.25 million to the Concessionaire and 66 percent service payment deduction to the OMR Contractor. The total cost consequence to the OMR Contractor is $2.72 million, which includes the Service Payment Deduction of $2.52 million plus busing costs of $0.47 million.

The Phase 1 and 2 material loss event for the above scenarios results in a total payment deduction of 13.2 percent, or $1.28 million to the Concessionaire and 30.1 percent service payment deduction to the OMR contractor. The total cost consequence to the OMR Contractor is $1.75 million, which includes the Service Payment Deduction of $1.28 million plus busing costs of $0.47 million.

It is the LTA's opinion that the effect of the worst case material event that has some reasonable level of occurrence would result in temporary financial distress to the OMR

Contractor but it would likely not be enough on its own to result in financial insolvency of the firm.

3.2.2 Normal Operations Sensitivity

The LTA has conducted an analysis of the Service Performance Deduction Regime to produce what the LTA considers to be optimistic, probable, and pessimistic scenarios under what the LTA considers normal operations of both Phase 1 and 2. Rather than looking to typical events, the LTA analyzed the range of on-time performances and Service Task Order Points the LTA would consider likely. This analysis assumes an annual Concessionaire payment of $117 million to the Concessionaire and $51.2 million payable to the OMR in year 2020, which corresponds to the amount in the Concession Agreement.

3.2.2.1 Optimistic Scenario

The optimistic scenario produces an Availability Ratio of 98.82 percent which is equivalent to an Availability Factor of 100.25 percent, and a Performance Deduction Percentage of 0. This results in an annual bonus (i.e., increased Service Payment) to the Concessionaire and the OMR Contractor of $292,500.

The scenario is based on the following assumptions:

- The rolling stock fleet operates at 99 percent compliance,
- Train operations are affected such that 98 percent of the train arrivals are on time, and none are more than 15 minutes late,
- The stations experience conditions that cause 0.09 percent of the scheduled station hours to be unavailable, typically due to heavy snow removal requirements, or elevators repairs, and
- Service Task Order Points do not exceed 50 per month.

3.2.2.2 Probable Scenario

The probable scenario produces an Availability Ratio of 97.89 percent which is equivalent to an Availability Factor of 100.04 percent, and a Performance Deduction percentage of 0.06 percent. This results in a deduction to the Service Payment of $23, 400, which is 0.02 percent of the Concessionaire annual payment and 0.05 percent of the OMR annual payment. This is close to being “neutral”.

The scenario is based on the following assumptions:

- The rolling stock fleet operates at 98.5 percent compliance,
- Train operations are affected such that 96 percent of the train arrivals are on time, and none are more than 15 minutes late,
- The stations experience conditions that cause 0.14 percent of the scheduled station hours to be unavailable typically due to heavy snow removal requirements, or elevators repairs, and
- Service Task Order Points add up to 60 per month.

3.2.2.3 Pessimistic Scenario

The pessimistic scenario produces an Availability Ratio of 94.50 percent equivalent to an Availability Factor of 99.00 percent, and a Performance Deduction Percentage of 0.77 percent. This results in a deduction to the Service Payment of $2, 070, 900, which is 1.77 percent of the Concessionaire annual payment and 4.04 percent of the OMR annual payment.

The scenario uses the following assumptions:

- The rolling stock fleet operates at 96 percent compliance,
- Train operations are affected such that 90 percent of the train arrivals are on-time, but none are more than 15 minutes late,
- The stations experience conditions that cause 1 percent of the scheduled station hours to be unavailable, typically due to due to heavy snow removal requirements, or

elevators repairs, and some poor quality maintenance issues such as rubbish removal, lighting repairs, etc., and
- Service Task Order Points add up to 120 per month.

Table 4 - Optimistic, Probable and Pessimistic Regime Scenarios

Scenario	Optimistic	Probable	Pessimistic
Availability Ratio	98.82%	97.89%	94.50%
Availability Factor	100.25%	100.04%	99.00%
Performance Deduction %	0.00%	0.06%	0.77%
Service Payment Adjustment	+$292,500	-$23,400	-$2, 070,900
% of Concessionaire Annual Payment	+0.25%	-0.02%	-1.77%
% of OMR Annual Payment	+0.57%	-0.05%	-4.04%

3.2.3 Summary

The LTA considers the risks posed by the performance regime to be relatively low to the OMR Contractor and low to the Concessionaire. The LTA's conclusion is based on the following rationale:

- The Service Payment Adjustment Regime is well defined resulting in low risk of mis-interpretation by RTD, the Concessionaire, and the OMR Contractor.
- Absent Concessionaire default, the Monthly Service Payment cannot fall below 75 percent. This is because the lowest achievable value of the Availability Factor is 80 percent, and the maximum value of the Performance Deduction Percentage (STOP points) is 5 percent.
- Force Majeure and Relief Event provisions protect the Concessionaire and the OMR Contractor from significant external risks.
- The Concessionaire and OMR Contractor management will have a real time (or nearly real time) monitoring system with metrics to identify and correct conditions that could result in considerable penalty adjustments.
- The Concessionaire and OMR Contractor have the ability to correct most performance conditions.
- In the event that OMR management fails to correct conditions that result in considerable penalty payments, the Concessionaire has the ability to monitor developing events with sufficient time to change key management personnel before a default condition would result.
- The high impact material loss single non-Force Majeure or non-Relief Event penalty is likely insufficient on its own to result in OMR Contractor insolvency.
- The LTA did not find any plausible event scenario that would result in default of the Concession Agreement.

3.3 Relief Regime

The LTA has reviewed the Concession Agreement for those events that constitute the Relief regime, and considers the Relief Regime to be reasonable.

There is a mechanism for notification and negotiation of costs and schedule impacts for Relief Events that occur during design-build, as well as operations, maintenance, and renewal. There is also a mechanism in the agreement, subsequent to a Relief Event occurring, that allows the Concessionaire to seek a rebalance, and achieve its investment IRR.

3.3.1 Changes in Law

There is relief associated with Changes in Law. Any decreases in cost resulting from a Change in Law Change will be returned to the Concessionaire,

In the event of a Change in Law Change, if RTD elects to require the Concessionaire to pay for the change, the Concessionaire can go to the Lenders and/or Shareholders. If the Lenders and/or Shareholders refuse, the Concessionaire will not be at fault for not funding the change, and RTD must then provide funding. RTD then has the right to terminate the concession and pay compensation to the Concessionaire (refer to section 3.6.2 of this report).

Under the Change to Law Change provision, there is a mechanism for adjusting Performance Deduction to provide relief to the Concessionaire.

3.3.2 Relief events

There are appropriate and adequate Relief Events covering most risks that are outside the control of the Concessionaire during both construction and operations. The Concessionaire receives day-for-day schedule relief for delays caused by RTD or any Project Third Parties, or Force Majeure event and the Concessionaire is entitled to be paid for the actual Incurred costs as a result of the delay, and Service Payments will commence on a date on which Service Commencement would have been achieved but for the Relief Event.

If a Relief Event negatively impacts the performance regime, the Concessionaire will not suffer impacts to the Availability Ratio or incur Performance Deductions that would be directly related to the Relief Events.

There is a mechanism to make adjustments to the Relief Event where the Concessionaire has contributed to the occurrence of the Relief Event, or has failed to mitigate the Relief Event.

The LTA finds the Relief Regime to be reasonable.

3.4 Force Majeure Regime

The Concession Agreement defines the events qualifying as Force Majeure events, the mechanism for declaring a Force Majeure event, as well as the consequences of a Force Majeure Event.

The LTA found the Force Majeure regime to be standard and appropriate.

With respect to financial responsibility, the Concessionaire is not obligated to incur recovery costs in excess of insurance proceeds or funds provided by RTD for restoration purposes, but RTD will continue to provide the Service Payments. Additionally, all impact on the Availability Ratio, Performance Deductions or the timing of commencement of the Service Payments will be discounted.

Extensive Force Majeure is considered to be triggered when a Force Majeure Event continues for 180 consecutive days within a period of 360 days, or when RTD has determined that the restoration plan is unfeasible.

Upon an Extensive Force Majeure, RTD or the Concessionaire may terminate the contract, and there is no default by the Concessionaire. The LTA considers this Extensive Force Majeure Regime to be reasonable.

The LTA considers the overall Force Majeure regime to be reasonable.

3.5 Contract Data Requirements

Attachment 6 (Contract Data Requirements) of the Concession Agreement identifies the contractual data requirements that will require external approval, either from RTD or a third party agency. Annex 1 and Annex 2 form the initial Contract Data Requirement List

(CDRLs) for the Project, where Annex 1 identifies requirements of the Concession Agreement, and Annex 2 identifies requirements of the Agreement's Attachments.

The LTA has reviewed Attachment 6 as well as Annex1 and Annex 2. The LTA finds the CDRLs and CDRL requirements to be appropriate.

3.6 Other Concession Agreement Items Noted by the LTA

Through the review of the Concession Agreement, the LTA identified the following clauses which the LTA believed should be included in this report.

3.6.1 Termination

There are clauses which define the Termination Events from either party.

3.6.1.1 Concessionaire Termination Events

RTD has the right to terminate the contract with the Concessionaire for what are standard industry reasons, primarily:

- Concessionaire Liquidation
- Concessionaire Seeking Liquidation
- Abandonment
- Deficient Performance
    - Violation of Safety Requirements
    - Availability Ratio is less than 80 percent in two or more months between the Revenue Service Commencement Date and the Final Completion Date (per corridor), or 85 percent in six or more months of any eight month period
    - Performance Deduction Percentage exceeds three percent of the Annual Base Service Payment over six of eight months

With respect to certain breaches, RTD can serve notice of termination due to breach, but the Concessionaire is allowed time to remedy the breach or to suggest a plan, and then to take corrective action. The Concessionaire is allowed to continue operating during the cure period (subject to compliance with certain clauses (e.g. safe operation, etc.)). If the Concessionaire does not remedy the performance, then RTD may complete the termination.

If there is a dispute in the Notice of Termination, the termination action moves into the Dispute Resolution Process.

The LTA considers the causes for termination as reasonable, as well as the process and timeframes for correction.

3.6.1.2 RTD Termination Events

The Concessionaire has the right to terminate the contract with RTD for what are standard industry reasons, primarily failure to pay an undisputed amount, the Concession Agreement becoming illegal or RTD Board failing to appropriate monies for the project by the end of the year in which payment of such moneys is due.

There is a process by which the Concessionaire may serve termination notice upon RTD, and RTD is allowed time to respond and provide corrective action.

If there is a dispute in the Notice of Termination, the termination action moves into the Dispute Resolution Process.

The LTA considers the causes for termination as reasonable, as well as the process and timeframes for correction.

3.6.2 Compensation Following Termination or Force Majeure

There is a mechanism for compensation to the Concessionaire in the event of termination by either party, or by Extensive Force Majeure.

For Concessionaire Termination, the payment by RTD will not exceed 100 percent of Lenders Liabilities then owing, if the termination occurs during the Design-Build Period. After the DB Period, the compensation is the greater of the Project Implementation Costs and 80 percent of the Lenders Liabilities (subject to certain deductions).

The calculation of the payoff during design-build determines the amount owed to the Concessionaire, less what it would take RTD to complete the project. The amount owed by RTD could be "negative", in which case RTD would be entitled to funds held in Construction Security.

The calculation of the payoff following design-build equals the Project Implementation Costs owed to the Concessionaire, less the value of the accrued amortization of the Project Implementation Costs, or 80 percent of the Lenders' Liabilities, whichever is greater (subject to certain deductions). In this case, the amount owed by RTD will be equal to or greater than zero. For RTD Termination, the Concessionaire will be owed the Lenders Liabilities, the Equity Market Value, unavoidable costs, and demobilization costs.

There is also a mechanism for compensation following termination due to an Extensive Force Majeure Event. In such case, the Concessionaire will receive the Lenders Liabilities, the shareholder's investments to date, unavoidable costs and demobilization costs.

The LTA finds that the compensation following termination to be reasonable.

3.6.3 Land

The RTD is to provide the land for the Concessionaire to construct the Project, and the Concessionaire will be given relief if such land is not available when scheduled.

The Site Survey and Site Availability process are clearly defined in the Concession Agreement. Additionally, the Construction Management Plan produced by DTP has a detailed process to track the availability of and access to all sites as to when they will be needed by the Concessionaire to commence their work.

3.6.4 Permits

It is the responsibility of the Concessionaire to obtain local, state and national permits to allow for the construction and operation of the Project, except those defined as RTD permits. The RTD permits are the FTA Record of Decision (ROD), United States Army Corps of Engineers (USACE) 404 Permit, and EPA Finding of No Signification Impact (FONSI). Refer to Section 5.7 for a detailed discussion on the approvals and permitting process.

3.6.5 Utilities

It is the responsibility of the Concessionaire to carry out the utility work in accordance with the requirements of the Utility Relocation Agreements and Attachment 20 of the Concession Agreement. Refer to Section 4.8 for discussion on the relocation of utilities.

3.6.6 Condition of Assets at Time of Handover

At the time of handover, the components of the Project must have at least three remaining years of life. Any necessary repairs will need to be made by the Concessionaire, or the cost of such repairs must be paid to RTD. The payment value must be backed up by a Letter of Credit of 120 percent value of the reinstatement value.

The LTA finds the handover and the reinstatement procedures to be reasonable.

3.6.7 Uninsured Risks and Insurance Cost Sharing

There are Uninsured Risks and Insurance Cost Sharing provisions that protect the Concessionaire from having to purchase insurance for risks that are uninsurable. This

provides a mechanism to distribute high risk items between RTD and the Concessionaire, and reduces the risk to the Concessionaire.

3.6.8 Effective Dates

The LTA did not find conditions established within the Effective Date clauses that would unreasonably prevent the Concessionaire from completing their work.

3.6.9 Quiet Enjoyment

The LTA notes that RTD cannot interfere with the Concessionaire's operations provided the Concessionaire is meeting its contractual obligations.

3.6.10 Conditions Precedent

The LTA does not find any unreasonable technical issues stated within the Conditions Precedent clauses that should prevent the Concessionaire from completing their work.

3.6.11 Rolling Stock Termination

There is a provision of Phase 2 rolling stock termination and delivery of Phase 2 cars to another location should Phase 2 not proceed, and the cost and warranties of these cars will be passed through to RTD and not the Concessionaire.

3.6.12 Changes

The Concessionaire can propose changes. If agreed to by RTD, there is a mechanism to negotiate and agree upon cost and time relief. If the change results in a reduction in cost, there is a benefit sharing arrangement in which RTD and the Concessionaire split the benefits at 45 percent and 55 percent, respectively.

RTD can propose changes, and if such changes incur costs and/or delays to the Concessionaire, then RTD must provide cost and/or delay relief to the Concessionaire.

There is a process for negotiating changes, irrespective of which side initiates the change, which the LTA considered to be reasonable.

3.6.13 Dispute Resolution

A Dispute Resolution process exists that is considered standard and reasonable by the LTA. The process relies upon Technical or Financial Panels, selected by the Parties, which are intended to serve as experts. An unresolved dispute that is equal to or greater than $25,000,000 will be referred to District Court. If the unresolved dispute is less than $25,000,000, it will be referred to Binding Arbitration.

3.6.14 Service Payment Adjustment

Section 49 of the Concession Agreement defines the Partnering Program, a process by which the Concessionaire can pursue an adjustment to the Service Payment. The intent is to address any material or sustained increases or decreases in operation and maintenance costs that were not foreseeable, and could have a material adverse effect on the ability of the Concessionaire to continue to perform its obligations.

On every tenth anniversary of the Revenue Service Commencement Date, the Partnering Program Agreement calls upon the Concessionaire and RTD to consider material or sustained increases in operation and maintenance costs that were not foreseeable as of the Final Proposal Due Date. If the Concessionaire and RTD agree that such increases have occurred, then the Concessionaire may appoint, with RTD's approval, an independent third party operations and maintenance expert (O&M Expert) to serve as a facilitator to resolve the problem. The decision of the O&M Expert is binding, and the Concessionaire does have an obligation to use reasonable efforts to anticipate the negative impact of such cost increases, and take action to reduce costs to lessen the impact of those cost increases.

This is important because it allows for re-pricing of the Service Payment in the event of unforeseeable cost increases which are not captured by the escalation indices being applied to the estimated costs, or if the indices selected for escalation are not reasonably tracking the actual costs of the labor, materials or other costs to the Concessionaire that the

indices are intended to track. The LTA believes that this significantly reduces escalation risk to the Concessionaire.

3.7 LTA Summary

Arup considers the Concession Agreement to be reasonable from a technical perspective. The Relief Events and Force Majeure clauses of the Concession Agreement are well defined, and favorable to the Concessionaire.

4 Technical Specifications and Design Review

4.1 Technical Specifications

The Technical Specifications for the Eagle P3 Project are contained in Attachment 7 of the Concession Agreement.

The Technical Specifications are made up of six discrete parts. These are:

- **Part A:** General Requirements for Design, Construction and Rolling Stock
- **Part B:** Infrastructure Requirements
- **Part C:** Rolling Stock Requirements
- **Part D:** Verification and Demonstration
- **Part E:** Operations and Maintenance Responsibilities During the Design /Build Period
- **Part F:** Third Party Options

The LTA has reviewed all parts of the Technical Specifications and found them to be generally in line with good practices for a commuter rail system. There are some specifications that the LTA recommended the Concessionaire take particular care to make adequately plans to address, they are:

- **Traffic Mitigation Elements:** The Concessionaire is only responsible to put in place traffic mitigation elements around stations for year 2015 traffic levels. Typically, traffic improvements are required for 20-year forecast traffic levels, not only 5-year (from 2010). The Concessionaire is aware that the local governments may require additional work to grant permits. The Concessionaire's legal counsel has confirmed that, if such an event occurs, the Concessionaire will be granted a Relief Event.
- **Additional Noise and Vibration Analysis**: Section 9.3 (b) of Part A requires the Concessionaire to re-analyze the East Corridor and Gold Line according to FTA requirements once the track geometry is finalized. Any mitigation that is more onerous than, or in addition to, the mitigation measures identified in the Record of Decision is the responsibility of the Concessionaire to implement. If additional mitigation were required, this has the potential to add to the cost of the project. The LTA can confirm that this particular risk has been considered in the risk register for determining the contingency of the DB Contractor.
- **Prescriptive Rolling Stock Requirements**: The LTA finds Part C of the Technical Specifications - Rolling Stock requirements, to be prescriptive.. The LTA believes the Concessionaire has fully taken these prescriptive technical specifications into account when selecting a rolling stock type that will have been proven by being in service for several years before the trains for the Project are produced. The LTA believes that as a result, the Concessionaire's risk in relation to Rolling Stock not meeting the specifications has been significantly reduced.
- **Wheel Slip/Slide**: The Rolling Stock Requirements requires the propulsion system to include wheel slip/slide detection and correction system to provide adhesion control to assure 85 percent of the available theoretical adhesion is obtained. The LTA notes that there could be occasions when this will not be attainable due to inclement weather in the winter. The LTA notes this as an issue with the specification, and not an issue of safely operating trains in cold climates. Although there may be some brief and temporary degradation in acceleration and braking performance during periods of extreme inclement weather, the wheel slip/slide detection and correction system is designed to handle this, and the LTA does not believe this to be an operational risk.
- **System Testing and Commissioning:** RTD has specified an exhaustive list of required tests in Section 2 of Part D. This list has been reviewed by the Concessionaire and, in light of its choice of vehicle, has been amended appropriately. This is included in Draft 0 of the System Testing and Commissioning Plan, Section 8.0 Rolling Stock, submitted in Volume 3, Section B.7 of the Technical Proposal. The LTA has reviewed

this section of the plan and is of the view that the additional tests specified in the plan are appropriate and the associated risk is low.

4.2 Track Alignment

The general approach to the design is to provide an alignment capable of supporting 79 mph operation in line with the Federal Railroads Authority (FRA) Class 4 standards. Due to constraints in curvature there are some sections where this is not possible and the design speed has been reduced to maintain proper passenger comfort.

The design standards are based on FRA and AREMA standards. The design standards contain a stepped approach. There is a desirable maximum and an absolute maximum identified for each characteristic such as curve radius and superelevation.

The LTA has reviewed the horizontal alignment, vertical alignment and clearances, both vertical and horizontal. The horizon alignment is governed by design speed with the minimum radii varying accordingly. The LTA has identified two cases where the radius is at the minimum value and has confirmed DTP is planning on taking the appropriate measure to mitigate issues of excessive wear and derailment from slow-speed flange climbing. The superelevation is within the FRA limits and spiral lengths have been calculated in accordance with AREMA best practices and FRA standards. The vertical alignment generally follows the existing freight tracks and matches the existing profile where appropriate. The stated absolute maximum gradient is 2.5 percent with a specific exemption for EMU-only tracks which allow up to 4 percent gradients.

The LTA has reviewed the operational clearances required for the Project. There are several dimensional clearance requirements by the Class 1 railroads in the sections where the commuter rail shares right-of-way with the Class 1's. In some cases, there are requests by RTD to exceed the minimum requirement. These are common issues on rail projects, and discussions have been held with representatives of each of the freight railroads to determine criteria that would be acceptable to them. There are several areas where the horizontal clearances requested by the Class 1 Railroads, and vertical clearances outlined in AREMA best practices are not met and variances have been requested. Having these variances unresolved presents a slight risk the DB Contractor, however, these are typical issues that the LTA would expect to be resolved early in the subsequent design phase of the project.

4.2.1 Ballasted Track Section

Ballasted track will generally be used, except on extended bridges and in hardened track areas (e.g., at grade crossings or in areas with potential flooding conditions).

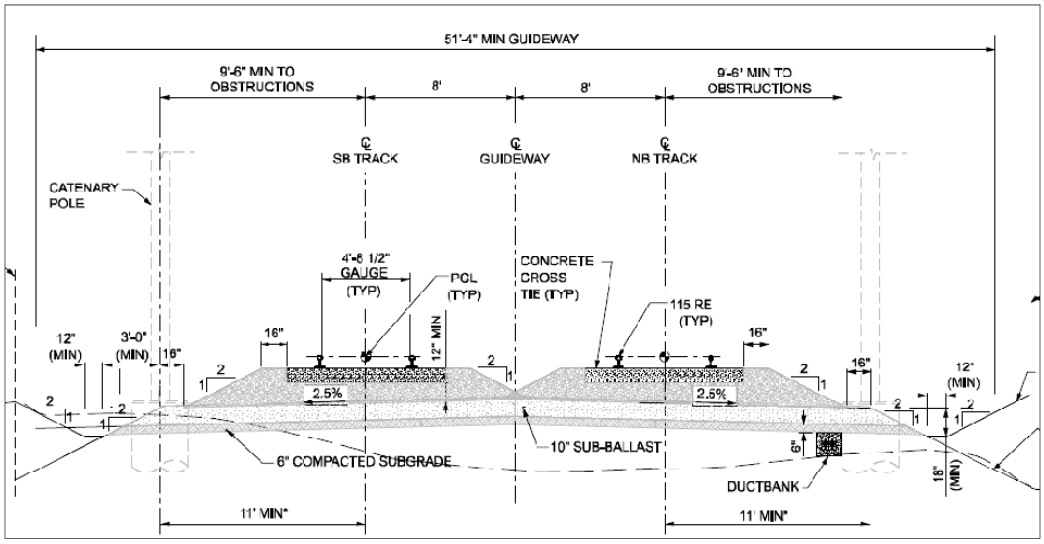


Figure 11 - Ballasted Track Typical Section

The typical ballasted track section consists of 10-inches of sub ballast, a minimum of 12-inches of ballast to the underside of rail tie, concrete ties and 115 RE rail. A ballast shoulder width of 16-inches with a 2:1 side slope is provided. These are all in line with AREMA best practices.

Special track work will be ballasted sections with timber ties. This will allow greater flexibility during maintenance and reduce the number of special ties required.

4.2.2 Track Hardening Options

For the locations where there is risk from a 100-year flooding event, a hardened track design is planned. This design incorporates direct fixation track mounted upon a slab of concrete, typically 10 inches thick.

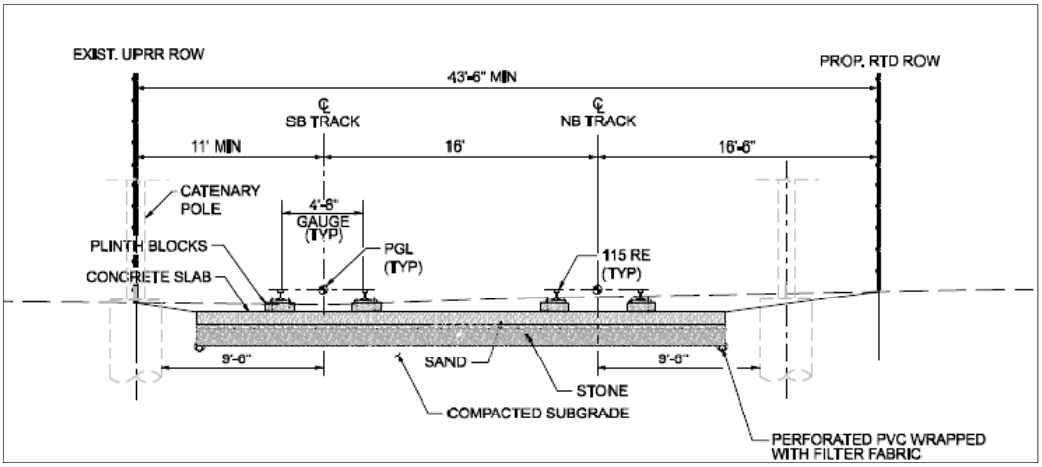


Figure 12 - Track Hardened Typical Section

4.2.3 Single Track Section

The single track option has been selected as the baseline design option. The risk associated with this option is that track maintenance or emergency conditions may remove a portion of this single track segment from service and disrupt continuity of service. This risk has been assessed in the Security Package assessment, and is considered to be manageable.

4.2.4 Conclusions

The LTA has found that the track designs are generally compliant with the RTD standards, and seek to comply with AREMA best practices. The LTA notes that the current design is at 30 percent level, and will be refined in the subsequent design stages. The LTA is satisfied that the track designs being proposed by DTP are suitable and appropriate for the Eagle P3 commuter rail service.

4.3 Rolling Stock Design Review

4.3.1 Risk Mitigation

The selection of a proven car that is already about to enter service mitigates many of the risks associated with new rolling stock. The majority of the sub-systems, trucks, and brake equipment will be the same, and the testing and entry into service of the cars in Philadelphia will eliminate most of the potential start up problems with the cars for the Eagle P3 Project.

Figure 13 - Artists Impression of the Denver Car

The first car produced by Hyundai Rotem for Philadelphia was delivered on March 03, 2010. Testing will commence shortly and the new cars will be in service in Philadelphia well before the order is placed for the Eagle P3 Project cars. Figure 13 shows a rendering of the proposed cars in service near Denver International Airport.

The LTA confirms that the quality systems within Hyundai Rotem are high.

4.3.2 Two-car Sets

Two-car sets, which are semi-permanently coupled together, were selected by RTD as the most suitable for the traffic densities expected on the Eagle P3 Project. This is important because single cars lose a lot of passenger space and are more expensive to build and maintain because they require two cabs in each car.

The two-car married pair units can be coupled to other married pairs in any location in the system, as they are fitted with automatic couplers that connect the cars both mechanically and electrically. This feature is needed when peak periods require longer trains than off peak services, and the automatic couplers allow this to be carried out at any location.

4.3.3 Body Structure

The body structure must comply with all the FRA regulations as well as comply with the maximum kinematic envelope permitted. The kinematic envelope is the maximum outline of the car, at maximum sway and bounce, and when traversing the minimum curve radius.

The only major difference between the Philadelphia cars and those for the Eagle P3 Project are that the Philadelphia cars must deal with both high level and low level passenger boarding platforms, whereas only high level platforms are going to be used on the Eagle P3 Project.

4.3.4 Trucks

The trucks selected are a well-proven design produced in the USA by Columbus Steel Castings. This particular truck design has been in service for over 40 years and has proven to be a strong and robust design that rides well. This is important because this minimizes risk of premature truck frame component fatigue due to loading cycles.

The trucks have been successfully tested for fatigue with a 6 million-cycle test, and have a very low un-sprung mass of less than 5, 400 lbs per axle. Un-sprung mass is the mass of the vehicle that has no suspension damping to attenuate forces at the wheel and rail. This is important because the lower the un-sprung mass the lower the impact loads on the track and this reduces long-term track maintenance costs. It also reduces wheel, bearing and axle maintenance.

4.3.5 Propulsion System

Mitsubishi Electric Company (Melco) is providing the propulsion system. It is a well-proven system and has proven reliable in other cars. It is used widely and the LTA has some experience with Melco systems in Hong Kong, and Sydney. It has sufficient power to manage the grades and the performance requirements as set out by RTD.

The traction system is a modern AC traction system fitted with AC traction motors. AC traction motors have far fewer parts than older DC traction motors, and provide a robust solution, with reduced maintenance costs. The performance history of the traction motors reduces the risk of significant undue traction motor maintenance problems for the OMR contractor.

The LTA considers the choice of propulsion system to be appropriate.

4.3.6 Traction Supply System

RTD have specified that the commuter system will use a nominal 25kV AC overhead traction power supply system. The actual voltage ranges considerably depending on how far the train is from the supplying substation and the amount of power the train and other trains in the area draw.

Figure 14 - Overhead Traction Supply System

The decision to use AC traction in Denver is considered a sensible decision, and will allow maintenance costs to be reduced below that of an equivalent DC system, both for the train and for the infrastructure.

DTP performed system operating simulations through a competent supplier to understand the traction power requirements of the vehicles, as well as the traction power usage requirements. The risk of the rolling stock not having adequate power to perform on the system is low.

4.3.7 Braking System

The braking system on the cars is comprised of three separate braking systems that are blended together.

The first system is the standard disc friction brake system located on the end of each axle. The second system is the propulsion system which is reversible, and provides dynamic braking. The third type of brake is a wheel tread friction brake located on each wheel.

All are commonly used brake systems, although on modern passenger rolling stock it is most common to use only disk and dynamic braking to work as a single brake from the perspective of both the driver and the passenger. The LTA has reviewed the proposed braking system, and considers the blending of all three systems to be a reasonable and workable system.

4.3.8 Vehicle Systems

The vehicle internal systems have been selected from proven equipment suppliers. There is a cross power feed between each of the two cars in a married pair. This provides redundancy and reduces risk of in-service failures due to a power supply failure in one car.

The train will be fitted with a train management system supplied by LONworks. This is an older but proven system and has been used in many cars. The LTA is aware that there can be integration issues between different systems, but each supplier can manage these issues with an open and joint approach.

4.3.9 Vehicle Safety Systems

The safety systems that are installed on the train are in accordance with the requirements specified by RTD and the FRA.

The first system is a simple driver vigilance system. The second system is the train bourn equipment required to convey the signaling system into the cab and to display the signals to the driver. Both of these safety systems are already in service on both freight trains and commuter trains in North America.

The third system is the Positive Train Control (PTC), a new system prescribed by the Federal Railroad Administration. PTC will be required on almost all passenger and freight rail systems by year 2015. PTC is a new system and uses geo-positioning from satellites to ensure that the train does not exceed its “limit of authority”, and will cause the train to brake prior to reaching the limit of authority. In other words, it will override the automatic train control system and stop the train if it enters a defined length of track currently occupied by another train. In the automatic train control system the train is only brought to a halt after it exceeds its limit of authority, often called passing a signal at stop.

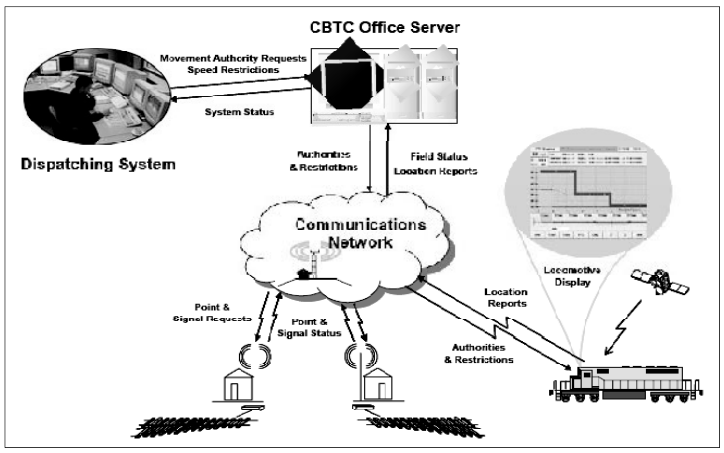


Figure 15 - PTC Concept Diagram

PTC is presently under development and testing in various forms, and many of the component parts use proven technology. However, there remains a risk to the systems as a whole because it is not proven and is not operating anywhere as a complete installation. Independent and unofficial advice obtained from the FRA is that they understand the risks associated with the new system, and understand that some of these risks may not be fully solved by the required PTC implementation date of 2015. It is anticipated that, should industry-wide implementation problems prevent PTC from operating on the Eagle P3 Project, the FRA would likely waive the requirement for the PTC system until problems are solved.

DTP has decided to order the PTC equipment from Wabtec to reduce the risk associated with a new system. Wabtec is the selected PTC implementer by many of the national freight railroads including BNSF and UPRR, and therefore are very unlikely to be allowed not to succeed. Again, if there are problems resulting in delays to PTC implementation, it is unlikely that the FRA will halt railway operations across the USA because of this.

Also, because PTC is an overlay system that is not necessary to safely operate the trains on dedicated tracks in automatic mode, the LTA does not see this as a significant risk to the Project or the Concessionaire.

4.4 Systems Design Review

The LTA has completed its review of the 30 percent Rail Systems Design documents, which include preliminary design efforts for the disciplines of Railway Signaling/Train Control, Railway Communications, Traction Electrification System/Overhead Contact System, and the Operations Control Center/Dispatch Systems. The rail systems 30 percent design is found to be compliant with the contract requirements and industry standards referenced in the RFP as follows:

- **Railway Signal/Train Control -** AREMA Recommended Practices for railway signaling and communication design, encompassed in the AREMA C&S Manual – all volumes, CFR 49, parts 234, 235 and 236 used by the Federal Railroad Administration as the Rules, Standards and Instruction (RS&I) for signaling, communications and automatic train control.
- **Traction Electrification/OLE –** AAR Recommended Design Practices, IEEE Traction Electrification Design Standards, and Section 9 of the RTD Commuter Rail Design Criteria.
- **Railway Communications/Operations Control Center/Dispatch Systems –** Contract specifications, specifically section 10 of RFP No. 18FH012.

Each subsystem in the rail systems domain has been individually evaluated for compliance with contract requirements, industry standards and best practices.

The LTA's assessments have been made based on project designs and construction normally associated with planning, designing and operating a fixed guideway system such as planned in the Eagle P3 Project.

The signaling system will utilize modern railway signaling design and construction techniques and products throughout the Commuter Rail Network to provide safety in the movement of trains and efficiency of train operations.

The functions of the train control system will include:

- Protection and control of track switches,
- Protection and control of bi-directional train operation,
- Protection for following trains operating with the normal flow of traffic, and
- Provision of highway-rail grade crossing warning systems.

The Railway Signaling/Train Control System is required to be designed to provide headways, which is the time and distance between following trains operating on the same track, in the normal direction of train travel, that do not exceed one third of the scheduled headway or 120 seconds, whichever is greater.

In summary, Railway Signaling/Train Control design appears to be appropriate for the intended train operation. The 30 percent design includes provisions for grade crossing warning system protection devices, interlocking control and protection devices, wayside signals at fixed stopping points along the alignment and cab signaling controls for regulation of train speed throughout the alignment.

4.4.1 Design and Construction Standards

The Railway Signaling/Train Control design is required to comply with established rail industry standards.

Railway Signaling/Train Control products installed for regulation and control of train movements throughout the Eagle P3 alignment will be compliant with established rail industry standards.

The 30 percent design documents comply with the intent of the relevant design standards; however, the Railway Signaling /Train Control products will need to be reviewed for compliance prior to being selected by Denver Transit Partners. The LTA confirms that this review has been planned appropriately in the QA/QC plan.

Industry best practices require a Signaling/Train Control System to have an expected service life of 40 years at the specified level of service.

The LTA considers the Railway Signaling/Train Control design to be conservative in its approach, and characteristic of a reliable system for the railway industry.

4.4.2 Communications and Control System

The Communications and Control System (CCS) is required by contract to include equipment and functionality necessary for the safe and reliable control and monitoring of systems and equipment at stations and on the wayside. This system will also provide reliable communication with commuter rail and Railroad operating and maintenance personnel, and provide visual and audible announcements to Passengers.

The features of the CCS are very broad and encompass a number of functional groups within the rail organization; however, the implementation of these systems is a well established practice in the rail industry and, if installed as a part of a sound design, is usually very reliable. The specification issued by RTD is in line with standard North American railroad practice, and compliance to the specification using standard and proven techniques present little, if any, risk to the Project.

The LTA considers the CCS design to be conservative in its approach and to follow established practice in the rail industry.

It is important for the CCS design to include interface and operational details such as communication protocols, device interconnects, operating voltages for equipment, minimum lighting levels for CCTV cameras, and environmental controls for equipment installed on the wayside. That these are not a part of the current 30 percent design is not a concern to the LTA and these details would be finalized in the subsequent design phases.

4.4.3 Traction Power and OCS

The Traction Electrification System (TES) is required to provide an integrated electrical power supply and distribution system made up of the following major subsystems:

- Traction Power Supply System (TPS),
- Traction Power Distribution System (TPDS), which includes the Overhead Contact System (OCS), and
- Traction Power Return System (TPRS), which uses elements of other systems, such as running tracks and impedance bonds.

4.4.3.1 Traction Power Supply System

The Traction Power Supply System (TPS) is required to supply power (motive and auxiliary) to the rolling stock (rail vehicles) that use pantograph current collection with current return through the running rails. The overhead voltage is nominally at 25 kV AC, single phase, 60 Hz. The TPS design must provide enough power on a continuous basis to support train operations as planned under the rail operating plan.

The TPS system planned is typical for this kind of rail network, and follows industry standard. The LTA believes this poses a low risk to the Project.

4.4.3.2 Traction Power Distribution System

The Traction Power Distribution System (TPDS) will include the Overhead Contact System (OCS) and electrical cables, electrical vaults and other types of secure enclosures, high-grade insulating materials to reduce the risk of electrical shock, and a system of disconnect switches to enable the removal of electrical power from discrete sections of the OCS. This is typical practice.

4.4.3.3 Traction Power Return System

The Traction Power Return System (TPRS) uses the running rails and includes rail bonds, cross bonds, rail return cables and static wires to complete the electrical power circuit that originates at the TPS system. This is standard practice and under normal operation the fact

that electricity is flowing through the rails presents no electrocution danger to human or animal life that comes into contact with the rails, as they are grounded and at the same electrical potential.

4.4.3.4 TES Capacity

The intended capacity of the TES appears to be sufficient to allow for power requirements of a future alignment expansion and interface, including the North Corridor. The LTA's review shows that the designer intends to comply with this requirement.

4.4.3.5 TES Design Review

The appropriateness of the TES design as it stands cannot be fully determined until additional performance data is available. This data, per the RFP requirements, will be generated from a series of studies to be conduct by the Concessionaire. The LTA is satisfied that the design at its current stage is adequate.

4.4.4 LTA Summary

The TES 30 percent design has been found to be conservative, robust, and stipulates requirements for further study by the Concessionaire to evaluate the initial and future needs of the system.

The LTA considers that the design of the rail system design documents at their present stage of development shows that the design is compliant with Concession Agreement, the FRA regulations and the relevant standards. The LTA finds that the designer's intent is consistent with established industry practices and are proven and based upon readily available technology. Various risks for systems risks have been identified in the risk register. Integration of the various systems to ensure proper interworking is a historical risk in the industry. DTP constituent companies have experience in managing these issues on a design, construction and operating basis, to include maintenance and renewal. The LTA does not anticipate major issues with design or implementation. DTP has prepared an Integration Management Plan and assigned an Integration Manager to mitigate any integration risks. The LTA is satisfied that this is well managed and the risk is relatively low.

Additionally, the LTA believes the proposed dispatch and train control system to be adequate and does not foresee any unmanageable risks. However, in our opinion, there are some risks in not being able to meet the deadlines mandated by the FRA regarding PTC implementation. To deal with this risk, DTP has selected Wabtec (preferred supplier of PTC for the Class I railroads), and has Xorail, a Wabtec owned company, as the supplier of ATC. If there are problems with PTC implementation, this issue will affect the entire North American railway industry. The issue of PTC implementation is not unique to the Project.

4.5 Commuter Station Design Review

The stations planned for the Eagle P3 Project are simple structures making maximum use of pre-cast platform units and modular construction. The layout of each station includes platforms, a bus transfer facility, Park and Ride (PnR) areas, kiss-n-ride areas and bicycle parking.

A transition plaza is provided between the platform and other mode changes (car/bus/walk). Fare collection and payphone provisions are made in these areas.

4.5.1 Station Shelters

The station shelter design adopts a standardized approach to architectural style with standardized basic designs. Each shelter length is based on a nominal 40-foot long canopy and 10-foot column grid, with variants.

The following rendering presents an example of one planned station.

Figure 16 - Representative Gold Line Corridor Station in "Main Street" Style

The minimum platform coverage area according to the guidelines is 300 square feet per 100 feet of platform length. This is achieved by using two shelters per 200 ft long platform and four shelters for the 380 feet long platforms.

4.5.2 Platform Sizing

The platforms are appropriately sized for the length of trains (approximately 170 ft long and 18 feet wide for a married pair). Three exceptions have been pre-approved by RTD, except:

- Criteria 6.4.4b notes platform slope should be 1 percent away from tracks; however, center platforms are shown sloping towards track on one of the Gold Line station drawings. The LTA has raised this concern with the Concessionaire and understand that this issue will be addressed in the subsequent design phase.

4.5.3 Station Areas

Planning of the station facilities and surrounding areas is considered to be appropriate based on the 30 percent design. The LTA has notified DTP of two minor concerns and DTP has expressed that they are intending to address these minor concerns in the subsequent design phase.

4.5.4 Summary

The stations are relatively simple and the associated risks have been captured in the Project risk register. The 30 percent design set show level of detail expected at this stage, and on this basis, the LTA is not aware of any unmanageable risks.

4.6 Bridges and Structures Design Review

The LTA has reviewed the bridge and structure drawings based on the 30 percent design information. Each structure has a general plan and elevation and general cross section. These drawings are in the preliminary phase of development and the LTA has reviewed for general compliance with the accepted methods of design and construction.

There are eight basic design types of bridges and major culverts for this project as identified in Table 5.

Table 5 - Bridge and Culvert Types

Type	Quantity	Approximate Total Length (ft)
Pre-Stressed Box Girders	11	2, 159
Post –tensioned Cast-in-place Box Girders	2	752
Pre-Stressed Bulb-Tee Girders	11	6, 111
Steel Plate Girders	3	658
3-sided Cast-in-place Box	3	359
Cast-in-Place Box Culvert	2	73
Combination	1	4, 068
Re-use Exist Steel Girder Bridge	1	142
Totals	34	14, 322
Bridge Feet as a Percent of Total Project		**7.7%**

With the exception of the steel plate girder bridges and the combination bridge, all bridges are concrete. The combination bridge includes both steel plate girder spans and pre-stressed bulb-tee girders. All bridge types are suitable for ballasted and direct fixation track, although each bridge is being designed to accommodate a specific track type.

The LTA notes that the design of the structures seeks to follow standard industry practice, and the bridge types selected are within acceptable limits for the materials and type chosen. All bridges are designed to conform to either AREMA recommended best practices or AASHTO recommended standards. This is important not only to meet the requirements of RTD, but also both AREMA best practices and AASHTO standards are considered as the key authorities for railway and roadway bridge design requirements in North America.

4.6.1 Bridge Designs by RTD

There are three additional bridge designs provided by RTD. These are BNSF over Kipling Street Bridge, UPRR over Sand Creek, and I-225 over the UPRR. The LTA has no concerns with the design as proposed by RTD.

4.6.2 Retaining Walls

Retaining walls are extremely common construction elements that will be used extensively throughout this project to provide for retaining earth from cut-away sections, or filled sections, and providing support to bridges and other structures so that the proper vertical and horizontal alignment of the railway or roadway can be accommodated.

The LTA has reviewed the types of walls to be used, and is satisfied that the types proposed are appropriate for the project and locations identified. The wall types selected provide reliable applications appropriate for heavy highway transportation. The LTA is also satisfied that there is low risk with respect to construction and operations.

4.6.3 OCS Catenary Foundations

The OCS catenary foundations on bridges are to be constructed of reinforced concrete. The LTA considers the design to be appropriate, but has suggested to DTP to review the OCS pole connection sizes for bridge-mounted OCS poles as the Systems Design progresses.

4.6.4 LTA Summary

In general, the risks associated with the construction and on-going maintenance of the bridges and structures identified for this project is considered low.

All bridge and structure types are common in infrastructure construction, and there are multiple fabricators and contractors familiar with both the type of design and methods of fabrication or construction.

The bridge types have been reasonably selected for their purpose and the overall density of bridges is less than 10 percent of the total project length. This allows the flexibility to work on multiple fronts without impacting other activities around bridge construction activities.

The majority of the structural spans will be pre-fabricated off-site. This allows fabrication of spans under better controlled conditions, and reducing the risk of problems in the field.

There are some risks associated with cast-in-place concrete. If concrete is not properly placed, vibrated and cured properly, there can be problems with cracking of the concrete, corrosion of the steel members or reinforcement bars used in the fabrication and construction of the components. With good quality control processes in the field, the LTA considers this a low risk.

The LTA also notes that bridge integrity is dependent on the underlying geotechnical conditions of the site. Prior to construction of the bridge support structures, the DB Contractor should confirm the existing ground conditions for support of the foundations.

The LTA is satisfied that the Retaining Wall drawings appear to reflect the 30 percent design level, with Gold Line drawings being the most developed. All the walls are designed to conform with AASHTO standards, specifications or LRFD Bridge Design Specifications, and to AREMA recommended best practices.

The LTA is satisfied that the OCS foundations for all locations on the project are robust and adequate. The LTA has also suggested review of the OCS pole connection sizes for bridge-mounted OCS poles as the Systems Design progresses to confirm that the proper loading between the OCS pole, foundation, and bridge is maintained.

Overall, the LTA believes the structures to be of straightforward design and that the risks associated are appropriately captured in the Project Risk Register. The LTA is not aware of any unmanageable risks.

4.7 Roadway and Grade Crossings Design Review

Roadway upgrades for the Project are generally triggered by changes to the track alignment, proposed grade separations, or proposed at-grade crossings. The majority of the roadway work consists of the repair or replacement of existing roadways that will be impacted by the project; however, there are some locations of street widening or relocation.

The technical assessment includes engineering analysis of the 30 percent design with a focus on design requirements, safety standards and best industry practices, as well as identification of potential risk to the Concessionaire. The plans reviewed included:

- Demolition and site plan,
- Geometric design,
- Signage, signal and striping plans,
- Grading and drainage plans,
- Storm sewers, inlet and underdrains, and
- Grade crossings,

4.7.1 Key Findings and Recommendations

The LTA is satisfied that roadway and grade crossing drawings appropriately reflect a 30 percent design level and the design seeks to conform to the required standards and industry best practices.

The LTA is satisfied and agrees with the approach being taken by DTP to install hardened track in the areas prone to 100-year flooding, and agrees that this is an excellent mitigation approach to preventing damage to the track from a flood, and allowing the line to quickly return to service following such an event.

The LTA is satisfied that the new pavements in public streets and along the Project length seek to follow the applicable codes and practices of the local jurisdictions.

The LTA noted some deficiencies in the proposed horizontal and vertical alignment of roadway in some locations. These will need to be resolved in the subsequent design

stages, but are not of particular concern at this early stage. The impact to current decisions and the development of the cost estimate would be very minimal, if at all.

The LTA notes that the drainage design may be somewhat conservative, which could result in some additional costs related to construction activities. However, this is difficult to confirm at this level of design, and any risk would be in overstating estimated construction costs.

4.8 Utilities Design Review

It is the responsibility of the Concessionaire to carry out the Utility work in accordance with the requirements of the Utility Relocation Agreements and Attachment 20 of the Concession Agreement.

In addition to the Utility Relocation Agreements, utility data was provided to the Concessionaire by the RTD for each of the corridors including, utility Inventory and impact evaluation, utility drawings, manhole field sheets, pothole field sheets, and utility owners and contact list.

Utility matrices were provided by corridor and present a detailed list of the utility information including but not limited to; conflicts with their resolution, the approximate location, and the respective approximate completion date.

4.8.1 Key findings and Recommendations

The LTA has reviewed the requirements of the Concessionaire for performing work on utilities and is satisfied that those requirements are consistent with standard civil construction practices.

The LTA has reviewed the existing utility matrix and the utility contact list for all the corridors. It appears to be a thorough list, and contains the type and nature of utilities that would be expected on a project such as this.

The LTA is satisfied that the usual risks associated with utilities placements, relocations, and betterments can be appropriately managed by following the Construction Management Plan, and that no unusual risks have been identified.

The LTA is satisfied that delay and cost impacts resulting from the discovery of unidentified utilities is appropriately managed in the Relief Regime of the Concession Agreement.

4.9 Commuter Rail Maintenance Facility Design Review

The Eagle P3 Project will be introducing new commuter rail cars to the RTD system and an entirely new and separate Commuter Rail Maintenance Facility (CRMF) is required.

The CRMF will be the central location for all operation and maintenance for the commuter rail network and is designed to accommodate storage of all the rolling stock on-site, all required maintenance facilities for both rolling stock and maintenance of way (such as systems, bridges, track, ballast) and provide the operations control center for the commuter rail network.

4.9.1 Site location and Constraints

The location of the CRMF is a 23.4 acre site generally located just northwest of the junction of Interstates 25 and 70. The CRMF is bound by Owens Corning to the north, Fox Street on the east, West 48th Avenue on the south and the mainline of the commuter rail on the west, creating a rectangular plot. The immediate area surrounding the proposed site is predominantly industrial with an Owens Corning manufacturing facility adjacent, a Burlington Northern Intermodal station immediately west of the commuter rail mainline, and a Union Pacific maintenance facility west of that.

4.9.2 Track Arrangement of the CRMF

The track is the means of access from the mainline to all the required facilities on the site. These include the maintenance facility, vehicle wash building and storage tracks. The tracks are designed to handle both two- and four-car trains with expandability to six-cars. Figure 17 is a schematic of the CRMF track layout proposed by DTP.

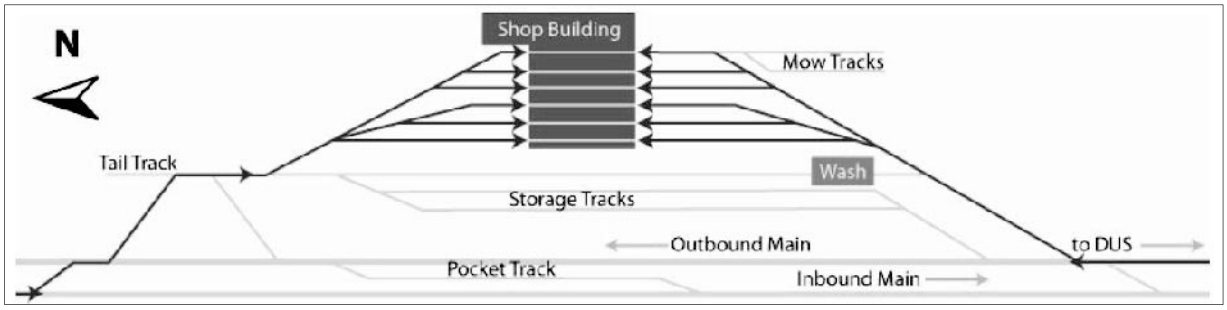


Figure 17 - CRMF Schematic Layout

4.9.2.1 Site Access

There are four access points to the CRMF, two to the south and two to the north. The southern switches are separated to allow direct access to the service tracks and the storage tracks for westbound trains coming from DUS. The northern switches will serve as the access from the eastbound service tracks to the CRMF through a series of switches across the westbound tracks.

4.9.2.2 Service Tracks

All rolling stock servicing and maintenance will occur within the CRMF. There are six shop access tracks with two of the tracks reserved for Phase 2 and four of the tracks required for Phase 1. The access tracks are designed to allow for the future expansion of the shop facility to service 6-car trains when required.

4.9.2.3 Storage Tracks

The design allows for five storage tracks. The storage tracks have been designed to accommodate the entire rolling stock fleet for the Eagle P3 Project in accordance with the 2035 operating plan established by DTP. The operating plan calls for a total of 50 vehicles, or 25 married pairs, as well as an additional 30 cars, or 15 married pairs, for the North Metro Commuter Rail Network.

Table 6 - CRMF Storage Capacity

	Shop Tracks	Storage Tracks	Other Yard Tracks	Total Storage
Initial Build	12 cars/vehicles (6 married pairs)	36 cars/vehicles (18 married pairs)	18 cars/vehicles (9 married pairs)	66 cars/vehicles (33 married pairs)
Future Expansion	18 cars/vehicles (9 married pairs)	68 cars/vehicles (34 married pairs)	12 cars/vehicles (6 married pairs)	98 cars/vehicles (49 married pairs)

4.9.2.4 Pocket Track

To aid in the movement of vehicles from the storage tracks to inbound service, DTP has designed a “pocket track” located between the westbound and eastbound service tracks sized to safely store an 8-car consist. This will allow a safe and efficient movement of vehicles into service without disrupting the service of revenue system. This is a very safe, robust design that only requires the coordination of one movement at a time, mitigating much of the risk of vehicles entering the system impacting the main line.

4.9.2.5 Maintenance of Way Track

The Maintenance of Way (MOW) activities include inspection and repair of the entire system other than the rolling stock. This includes such activities as inspecting rail, inspecting the

traction power systems, inspecting the bridges, tamping of ballast, replacement of ties, inspection of the bridges, etc.

To properly maintain the system and be able to respond rapidly to needed repairs, the operators are purchasing a fleet of non-revenue vehicles, several of which are track mounted and will require a storage location in the CRMF.

Two tracks, approximately 300-feet long, are designed to accommodate these track mounted non-revenue vehicles.

4.9.2.6 Track Sections

The track section used in the CRMF will be a ballasted track with concrete or timber ties. Along the storage tracks, the centerline track spacing is increased to allow for a seven foot wide asphalt inspection road to be installed between every other track to allow for non-service and emergency vehicles needed access around the site.

4.9.2.7 Design Standards

All track within the yard is anticipated to be designed in accordance to the RTD Commuter Rail Design Criteria.

4.9.3 Rolling Stock Maintenance Facilities

The maintenance facilities consist of the main facility and the vehicle wash building, which is located separately on the site. These include the welding shop, truck shop, air brake shop, machine shop and the HVAC/pantograph shop. This facility also contains cleaning rooms and a tool and portable equipment room.

Figure 18 - Rendering of the Maintenance Facility

4.9.3.1 Design Standards

The rolling stock maintenance facilities are purpose built to serve the specific needs of the rolling stock, therefore, no overriding standards to layout the rolling stock maintenance facility exist except for the general local building code.

4.9.4 Operation Facilities

The CRMF will also contain all the administration and operation facilities required to operate the commuter rail system from one location.

4.9.4.1 Operations Control Center

The OCC will house the dispatch offices, the security offices, the communications room and the situation room. The OCC will have a direct connection to the RTD main control room.

Figure 19 - Rendering of Operations Control Center

4.9.4.2 Administration Offices & Supplemental Support Space

Within the CRMF there will be separate administration and support offices dedicated to operation of the individual contractual obligations. Additional support space has been designed for some or all users of the facility.

4.9.5 Civil Works

4.9.5.1 Site Access and Parking

There are two primary vehicular accesses to the site. Access to the CRMF parking lot will be off of the 48th Street frontage road where there will be 155 parking spaces. All delivery trucks will be required to use the access off of Fox Street.

4.9.5.2 Emergency Vehicle Access

The site is designed to allow for emergency vehicle access around the entire site in accordance with the International Building Code. There is a slight risk that the local fire department may ask for additional turn-around locations, or additional hydrants due the nature of the facility, therefore the layout will need to gain fire department approval as soon as possible to identify any additional items they may require.

4.9.5.3 Site Security

The CRMF will be a secured site. The yard and buildings will be equipped with CCTV's and the vehicular access points will be secured by gates.

4.9.5.4 Drainage

The stormwater control within the CRMF is by a series of manholes with grated lids, conveyed by a series of reinforced concrete pipes. The City and County of Denver detention and water quality requirements were followed as were the water quality and pond grading requirements of the Urban Drainage and Flood Control District (UDFCD). Additionally, the pipe sizing and hydrologic methods used follow the UDFCD standards.

4.9.5.5 Utilities

The primary utility connections required at the CRMF are water, sanitary sewer, electric gas, and communications.

The utility drawings reviewed were not as fully developed as the rest of the plan; however, this should be easily rectifiable early in the design phase. The connections being proposed are primarily industry minimum standards, however, the load requirements should be discussed with the local providers to ensure there is adequate capacity in the system and that no additional upgrades to the larger system would be required. This generates a small

risk to the cost and schedule and has been appropriately accounted for in the cost estimates.

4.9.6 Phasing and Expansion Considerations

The CRMF yard and maintenance facility is designed with the project phasing and expansion of the commuter rail fleet in mind. As currently designed, the facility has Phase 1, Phase 2, and future expansion plan areas identified.

4.9.7 LEED® Silver Certification

The Concession Agreement requires that the CRMF facility meet or exceed the United States Green Building Council's Leadership in Energy and Environmental Design (LEED®) Silver Certification. Points are awarded in seven categories including, Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Recourses, Indoor Environmental Quality, Innovation in Design and a new category called Regional Priority Credits.

DTP has not yet populated the preliminary checklist to see how the CRMF, as designed, will likely measure to the required certification level. There is a slight risk that the costs being carried forward are not adequate to cover any additional design elements or improvements required to meet the silver level. This is a small but manageable risk.

4.9.8 LTA Summary

The LTA is comfortable that the CRMF is appropriately designed for a 30 percent submittal and the risks associated with the CRMF/Yard/Shops have been appropriately captured in the Project risk register. The LTA is not aware of any unmanageable risks.

4.10 Geotechnical Considerations

4.10.1 Documents Reviewed

The LTA has reviewed available geotechnical reports and memoranda for each of the project segments.

The LTA reviewed the reports for primary areas of geotechnical risk and associated recommended mitigation measures. The LTA identified a few areas of risk that should be addressed for completeness of information prior to final design, but in general, found the geotechnical investigations and reports to be competent and reasonably complete for the current level of design and the risks manageable.

4.10.2 Primary Geotechnical Risks

The geotechnical reports identified some concerns that are present in each of the project segments. These reports typically presented an engineering solution to mitigate those concerns. The level of risk associated with each of the geotechnical concerns is typically related to the extents within the project limits that the conditions exist, and will be resolved as the design moves to more detailed stages.

The following primary geotechnical risks noted in the reports are:

- **Expansive Overburden Soils**: Expansive soils were noted in areas that may lie beneath the rail alignments. Mitigation is proposed by removal and replacement of these soils with granular backfill or lime treatment.
- **Expansive Shallow Bedrock (claystone bedrock):** Deep foundations are required so that the bridge and culvert structures are supported in zones of constant moisture.
- **Hydro-Collapsible Soils:** Hydro-collapsible soils, typically wind blow silts, are present in areas within the alignments. Removal and replacement of these soils is recommended, but proper drainage and runoff control may eliminate this risk provided as-needed maintenance is performed.
- **Corrosive Soils:** Type V cement will be required for foundations in these areas. The limits of the corrosive soils are not well defined and additional information should be obtained prior to final design. The unknown limits of the corrosive soils represent a low to moderate risk.

- **Scour:** Scour is wear and degradation to concrete and soils from water flow. Commonly rip rap is placed around the foundations to prevent scour from undermining the foundations. Adding pier protection is a very low risk.
- **Potential Flooding:** Potential flooding may occur at some areas within the project. Depending on the location and extents of the flooding, this represents a low to moderate risk.
- **Landfills:** Undocumented landfills exist at several locations within the project. Building stations and track over the landfills has risk from foundation stability and from environmental contamination.

4.10.3 LTA Summary

The LTA has found the geotechnical data was generally sufficient to complete the current level of design. Additional geotechnical investigations and analysis should be conducted as the design progresses, but this is to be expected for a project such as this.

The LTA is satisfied that the risks associated with landfills can be managed by appropriate levels of investigation prior to design/construction, for both stability and environmental contamination issues. Risk from potential stability problems can be resolved by common civil design techniques and construction practices. Risk from environmental contamination issues has been mitigated by Section 12 of the Concession Agreement, which covers Site Conditions and Site Investigations, including the Draft Voluntary Clean-up Plan and Materials Management Plan.

The LTA considers the geotechnical risks to be manageable and not out of the ordinary for a project such as this; and the LTA is satisfied that the Concessionaire has taken geotechnical risk into account when preparing the construction contingency for the Project.

5 Construction and Procurement Assessment

5.1 Design-Build Contract Review

The LTA has reviewed the executed version of The Design-Build Contract (DBC).dated July 9 2010. The parties are Denver Transit Partners, LLC (DTP) as the Concessionaire, and Denver Transit Systems, LLC as the DB Contractor.

The LTA provided comments on the clauses considered to be most relevant to the Lenders below.

5.1.1 Contractor's General Responsibilities

The Contractor's general responsibilities, described in Article 2, involve comprehensive design-build tasks, which are "back-to-back" with the CA. The LTA considers the allocation of the design-build risks and responsibilities to the DB Contractor to be reasonable as the party best able to manage and mitigate them.

The scope of work involves delivering all Work free of defects and in compliance with the CA Requirements.

Among the obligations are: Early Work, Project Schedules, development of Recovery Plans, Material DB Milestone Recovery Plans, Site Review, Environmental Clean-up Work, Utility Relocations, interface with Concessionaire and Other Contractors, and Permitting.

Additionally, explicit risk transfer to the Contractor applies in the following situations:

- **Sites and Additional Land:** (Section 2.1.6) If during the Design-Build phase the Contractor requires additional land (other than the land obtained and provided by RTD at its own cost) to perform his tasks, all risks in terms of cost and time of any failure or delay by the RTD to provide additional land will be assumed by the Contractor. The LTA considers this risk reasonable as the Construction Management Plan has a robust process established to track the availability of and access to all sites when needed to commence the work.
- **No Warranties for Reference Data:** (Section 2.2.2) As is generally the case, the Contractor is expected to conduct his own tests and studies and assume risks for any discrepancies between the Reference Data and actual conditions.

Section 2.5, Independent Engineer, requires Contractor to fully and promptly cooperate with the Independent Engineer and/or LTA as reasonably requested by Concessionaire.

5.1.2 Contract Price and Payment

The Concessionaire will pay the DB Contractor a firm, fixed price, lump sum of $1,269,196,983 over the construction period (assuming that Phase 1 and Phase 2 Notice to Proceed occur).

Regarding the Payment Schedule (Section 4.2.1), other than the first installment, which is payable on the Phase 1 Work Commencement Date, the Contract Sum will be paid in monthly instalments. The amount paid will be determined based on the percentage of work completed against an agreed Payment and Values Schedule, subject to the Maximum Cumulative Contract Sum Payment.

The provisions for this section need to conform to the applicable provisions of the Independent Engineer's and/or Lender's Technical Advisor's monthly payment certification process.

The adequacy of the construction budget and security package, consisting of the Parent Company Guaranty, Performance Bond, Letter of Credit, and Liability Cap, is discussed in Section 7.1 of this report.

5.1.3 Guaranty

Section 4.10 defines the required parent company guaranties. The Contractor shall cause the Guarantors to execute and deliver a guaranty on a joint and several basis in favor of the Concessionaire. The Guarantors are Fluor Corporation and Balfour Beatty LLC (with a guaranty provided by Balfour Beatty plc, a public limited company organized under the laws of England). LTA notes that the parent companies are both very large international corporations that are experienced in the construction industry and, in the LTA's opinion, have with the financial strength to satisfy any liabilities incurred as a result of the Guaranty.

5.1.4 Security

The overall security package consists of the following:

- **Performance Bond:** (Section 4.11) On or before the Phase 1 Work Commencement Date, the DB Subcontractor shall provide Concessionaire with a bond in favor of RTD, the Concessionaire, the DB Contractor and the Financing Parties as obligees, in an amount equal to the greater of (a) 50 percent of the total value of the work to be performed in any calendar year under the DB Contract and (b) five (5) percent of the total value of the work still to be performed under the DB Contract as calculated on the first day of each calendar year. The provision of this bond will allow the Concessionaire to comply with its obligations under the Concession Agreement.
- **Letter of Credit:** (Section 4.12) The Contractor shall provide an on demand Letter of Credit on the Phase 1 Effective Date in an amount equal to six (6) percent of the contract sum. Letter of Credit may be reduced to three (3) percent of the Contract Sum as of the Revenue Service Commencement Date for the East Corridor. The Letter of Credit shall remain in effect until the last Final Completion Date.
- **Warranty Bond:** (Section 4.12) No later than the last Final Completion Date, The Contractor shall procure and maintain a warranty bond in an amount equal to 10 percent of the Contract Sum until the expiration of the last warranty or the resolution of any warranty claims made prior to warranty expiration.

These provide substantial protection to the Lenders.

5.1.5 Acceptance of Work

Acceptance of Work clauses (Article 6) in the DB Contract are "back-to-back" with those in the CA. The clauses clearly specify what the requirements are to achieve each of the milestones (Revenue Service Commencement Certificate, Final Completion of Each Rail Project, and Final Completion), the procedures to communicate when targets have been achieved, and the parties involved in each step of the acceptance process.

The LTA considers the clauses to be reasonable and within industry standards.

5.1.6 Late Completion Payments

As is normally the case in design-build contracts, risks associated with schedule delays have been passed down to the Contractor by imposing monetary payments for failure to deliver according to the schedule. Concession Agreement Liquidated Damages (Section 7) apply to the following delays:

- Failure to achieve Early Work Completion Date (Contractor risk only as it occurs prior to financing period).
- Failure to achieve Revenue Service Commencement on or before the Revenue service Target Date for any of the Commuter Rail Projects.
- Failure to achieve Final Completion Date, subject to Section 6.5.1 in the DB Contract.

The Late Completion Payments are in lieu of Concessionaire's right to terminate the DB Contract. However, if the Contractor is not able to achieve the Revenue Service Commencement Date for any of the Commuter Rail Projects no later than five (5) months

prior to the Revenue Service Deadline Date, such delay would constitute an Event of Default.

The analysis of this requires explanation in the context of the Construction Schedule, and is presented in Section 5.6 of this report.

5.1.7 Contractor's Maximum Liability

The total liability of Contractor is capped at 45 percent of the Contract Sum (Section 9.1) provided, that the foregoing limitation does not apply to or include:

- insurance proceeds,
- costs, liabilities and obligations that arise from Gross Negligence, willful misconduct or actual fraud of Contractor,
- costs, liabilities or obligations that arise from the DB Contractor's abandonment of the Work or from a certain Contractor Events of Default,
- DB Contractor's breach of its obligations in Section 10.5 (No Liens or Encumbrances),
- DB Contractor's indemnity obligations.
- Sums paid by the DB Contractor to the OMR Contractor under the Interface Agreement

The adequacy of the liability cap is discussed in Section 7.1 of this report.

5.1.8 Warranties and Guarantees

The Contractor is required to provide warranties for both Early Work performed, which involves all work in connection with UPRR freight track relocation, and the rest of the Work performed.

Early Work Warranties: In order to reduce the Concessionaire's exposure to design and construction defects, the Early Work Warranties, defined in Section 10.3 of the DB Contract, are "back-to-back" with the CA. This means that Early Work Warranties should be valid for at least 12 months after the Early Work Completion Date or 12 months after RTD begins its use before final acceptance of Early Work.

General Warranties: defined in Section 10.1, are standard with commercial practice. Contractor's work is expected to be free of defects in material, equipment, and workmanship. The Warranty Periods for the different project components are as follows:

- 18 months following the Revenue Service Commencement Date for each of the commuter rail corridors (Gold Line, East Corridor, NWES).
- 18 months following the date on which the Concessionaire accepts final completion of Contractor's Work with respect to the Commuter Rail Maintenance Facility.
- 18 months following the date the Concessionaire accepts final completion of Contractor's Work with respect to the DUS Rail Segment.
- 24 months following the date on which the DB Contractor accepts delivery of each car in accordance with the Rolling Stock Supply Contract.

The warranty terms suggested above, though shorter than standard, are acceptable since the rail systems will essentially be passed over to themselves (Fluor and BBRI are lead members of the OMR Contractor). The periods indicated are an additional six months of coverage over those suggested in the CA except the rolling stock which is the same.

5.1.9 Force Majeure

Force Majeure Events in the DB Contract (Article 11) are "back-to-back" with those in the Concession Agreement.

5.1.10 Scope Changes

The Scope Changes in the DB Contract (Article 12) are "back-to-back" with the CA. This ensures that appropriate mechanisms are set for requesting and negotiating Scope Changes by the Concessionaire, RTD, or the Contractor. Additionally, appropriate timelines (shorter response times than in the CA) have been established to provide the Concessionaire enough time to comply with the timelines set in the CA.

5.1.11 Termination of Contractor

According to the clauses for Termination of Contractor for Cause (Section 15.3), the Concessionaire has the right to terminate the DB Contract for: failure to comply with Key Deadlines, abandonment of work, Contractor's bankruptcy, and Contractor's poor performance. These are considered industry standard.

Appropriate deadlines preceding those set on the CA have been established in order to provide the Concessionaire enough margin to undertake remedial actions against the DB Contractor in case of delay.

The Table below summarizes the Deadlines triggering Termination in both the Concession Agreement and the Design-Build Contract.

Table 7 - Deadlines Triggering Termination

Concession Agreement	DB Contract
Failure to achieve Phase 1 Effective Date may cause Termination and the RTD can draw and retain the Proposer's Security	
Failure to commence Work within four (4) months after the Phase 1 Commencement Date	Failure to commence Work within 10 days after the Phase 1 Commencement Date
Failure to achieve Revenue Service Commencement Certificate on the Revenue Service Deadline Date (18 months after the **last** Revenue Service Target Date)	Failure to achieve Revenue Service Commencement Certificate five (5) months prior to the Revenue Service Deadline Date or the Independent Engineer certifies to Concessionaire that there is no reasonable prospect of Contractor obtaining such Revenue Service Commencement Certificate no later than five (5) months prior to the Revenue Service Deadline Date
Failure to achieve Final Completion Certificate of any Commuter Rail Project by the Final Completion Deadline Date (24 Months after the Revenue Service Commencement Date)	Failure to achieve Final Completion Date for any Commuter Rail Project by the Final Completion Deadline Date (15 months after the Revenue Service Commencement Date)
	failure to issue a DB Milestone Recovery Plan within 90 days of written notice by the Concessionaire and failure to complete a DB Milestone within 12 months of the target date
	Rolling Stock Supply contract is terminated during the DB period and the Contractor has not entered into a replacement contract on similar terms within thirty (30) days following the termination

Source: Executed versions of the Concession Agreement and Design-Build Contract

Please refer to section 5.6.1 of this report for more information about the appropriateness of the Longstop Dates and of the DB Milestones.

5.1.12 Dispute Resolution

Dispute Resolution procedures are provided for the following cases:

- **Dispute Resolution for disputes not exceeding $1 million:** (Article 19) These hold the biggest risk to cost certainty in this case, shall be resolved via "binding arbitration". This precludes expensive courtroom proceedings before a judge or jury, although

eventually court action may be required to perfect and or enforce the Arbiters ruling. Binding arbitrations are enforceable in all fifty states under federal and state law. The rules specified are issued by JAMS (an arbitration body) and afford limited Arbiter approved discovery. Additionally, the clauses promote participation in partnering (Section 19.4) and continuation of work during dispute resolution (Section 19.3).

- **Disputes over Project Schedule and Disputes over Force Majeure:** (Section 2.1.1(ii)) These may be resolved via Dispute Resolution Procedures described under Article 19.
- **Disputes over "material" Scope Changes under $1 million:** (Article 12.17) These may be resolved via an "expedited" arbitration that intends to resolve the issue within three months.
- **Disputes over $1 million** (Article 19) should be litigated in Colorado State or Federal Court before a Judge.

The LTA considers the Dispute Resolution procedures to be reasonably comprehensive, as they cover typical cases where issues can arise, and aimed at avoiding expensive courtroom proceedings particularly for disputes which hold the biggest risk to cost certainty (disputes less than $1M).

5.2 Rolling Stock Contract Review

The LTA has reviewed the following parts of the execution version of the Rolling Stock Supply Contract:

- Contract Part I – Scope of Work
- Contract Part II – Commercial Terms Standard – Unit Price
- Contract Part III – General Terms Standard

5.2.1 Contract Part I – Scope of Work

The contract is substantially "back-to-back" with the RTD requirements and in defining the scope of work makes reference to the specific drawings, attachments and exhibits of the Eagle P3 RFP.

The contract makes direct reference to the individual systems and subsystems with respect to the design of the rolling, the majority of which is presented in Section 4.3 of this report.

The scope of work is complete and includes the following key sections:

- Description of Work – Specific
- Materials and Workmanship
- RAMS (Reliability, Availability, Maintainability, Safety)
- Capital Spares and Test Equipment
- Performance Schedule and Sequence of Work
- Reporting Requirements
- Data Requirements
- Quality Control
- Construction
- Key Personnel

5.2.1.1 Contractor Responsibilities

The contract clearly states that the Rolling Stock Contractor (Hyundai Rotem) has primary responsibility to the DB Contractor, and ultimately to RTD.

The contract is thorough in its treatment of risk, transferring risk to the Rolling Stock (RS) Contractor (Hyundai Rotem), thus protecting the Company (DB Contractor), and the Concessionaire (DTP).

Examples of significant risk transfer include (from Section 3.0):

- "The [RS] Contractor is responsible to support the [DB Contractor] with this [systems integration] obligation for the Rolling Stock and the interfaces with other system components to ensure that all components of the system will function properly and achieve the required performance and safety levels.
- "The [RS] Contractor shall manage the vehicle design, build delivery, test and commissioning project….This shall include all the Contract Data Requirements List (CDRL Attachment 6 to the Concession Agreement) relating to the vehicle."
- "The [RS] Contractor shall deliver to the [DB Contractor], Rolling Stock, spare parts, special tools and test equipment, documents and services which meet the physical, performance and documentation requirements stated in Attachment 7 Part C, Rolling Stock Requirements."
- "The [RS] Contractor shall comply with all Applicable Requirements ….FRA, FTA, USDHS, APTA, AAR, State of Colorado, EPA, NEPA, NFPA, and OSHA."
- "The [RS] Contractor shall…Procure, integrate, and test the ATC and PTC on-board systems in accordance with Sections 3.18.2 Positive Train Control (PTC) System, and 3.18.3 Automatic Train Control (ATC) System…". The RS Contractor is required to use Wabtec as the PTC supplier.
- "The [RS] Contractor shall coordinate the design and manufacture of Rolling Stock so as to ensure the Rolling Stock is compatible with the commuter rail network in all respects necessary for operation and maintenance of the Rolling Stock and commuter rail network."

These clauses clearly lay out that the RS Contractor is responsible for delivering a properly designed, functioning, and legally compliant vehicle, and substantially protects the Concessionaire. These clauses substantially pass the vehicle manufacturer the risk transferred from RTD to the Concessionaire with respect to vehicle design and systems integration associated with the vehicle. Legal compliance for the purposes of the LTA review includes the compliance to all FRA regulations and other standards that are applicable to the vehicle and its operation.

5.2.1.2 Verification and Demonstration

These requirements are backed up by a comprehensive Verification and Demonstration program defined in considerable detail in Section 4 of the contract.

The RS Contractor is responsible for developing a System Testing and Commissioning plan that will demonstrate and differentiate between:

- Qualification Tests: the functional design compliance and performance verification,
- Acceptance Tests: the acceptance of each component, subsystem, and system,
- Integration Tests: the testing of integrated systems, and
- Demonstration Tests: demonstrating the performance of the Rolling Stock.

There are defined processes for each of the above tests, and the testing includes:

- Meeting the full System Performance Demonstration for each commuter rail project of at least 21 days, with a minimum of 10 consecutive hours of operation each day, including transition between peak and off-peak service that represents a full weekday operation, and
- Continuing until the relevant Commuter Rail Project has achieved the Availability Ratio required by the Revenue Service Commencement Requirements.

A further requirement is that the rolling stock must accumulate 25, 000 aggregate miles of service, and a minimum of 1, 000 miles per car before they can be placed into revenue service.

Such a comprehensive testing regime helps to ensure complete testing of all systems and subsystems, and provides a mechanism to verify performance and correct any major or minor problems, and clearly demonstrates the performance of all aspects of the Rolling Stock and associated systems prior to full acceptance of the vehicles.

These clauses are important because the responsibility to design, manufacture, and deliver Rolling Stock that will meet the design, operational and legal requirements of the Eagle P3 project resides with the RS Contractor. This is strong protection for the DB Contractor, and therefore, the Concessionaire.

5.2.2 Contract Part II – Commercial Terms Standard-Unit Price

This second document is the pricing and schedule. As with the first document, it is very favorable to the DB Contractor and therefore the Concessionaire.

There are clear statements of vehicle quantities, pricing, and the basis for pricing.

The contract states that failure to assess the scope of work as stated in Contract Part I – Scope of Work and all other Contract Requirements, shall not be accepted as a basis of change. This is important because it protects the Concessionaire from any misinterpretation of the Contract requirements by the RS Contractor.

The pricing is set in US Dollars and does not allow for adjustments due to currency exchange rate fluctuations.

There is a well defined change process for any changes requested by the DB Contractor.

The contract has a quantity of 50 vehicles as its basis, but there is an option to purchase and additional 8 to 24 vehicles if ordered within 24 months from the RS Contractor's scheduled delivery date of the last vehicle.

The Payment Schedule is very well defined, and specifies the sums payable during the contracting and design process, and then through the delivery and acceptance testing of each married pair of vehicles. Generally, payment of the contract amount is paid incrementally on milestones defined as design steps deliverables, or married pair deliverables, until the expiration of the General Warranty on the last Base Order car.

The Payment Schedule is quite clear and the LTA considers the payment milestones to be reasonable.

Progress payments are subsequent to the submittal of a defined set of progress documents.

There is "time is of the essence" language in the contract that can trigger Delay Damages. These are:

- $2, 000.00 per car per day for every day past the car delivery date indicated on the Delivery Schedule for Pilot Cars not delivered to the Project Site,
- $1000.00 per car per day for every day past the car delivery date indicated on the Delivery Schedule for Production (fleet) Cars not delivered to the Project Site,
- Damages suffered or incurred by the Company arising as a result of delay to issuance of Revenue Service Commencement Certificates beyond the Revenue Service Target Dates, attributable to default by the Contractor (including defective performance of the Rolling Stock), capped at 10 percent of the contract price.

In addition, the DB Contractor may back charge the RS Contractor for any costs sustained by the DB Contractor for work that is the responsibility of the RS Contractor.

The LTA finds these reasonable protections to the DB Contractor and Concessionaire.

5.2.3 Contract Part III – General Terms – Standard

This third document is the contractual terms. It covers the following key areas:

- Work Quality Standards,

- Timing of Work,
- General Requirements,
- Work Changes, and
- Materials and Equipment.

As with the two preceding parts, the terms are favorably biased in favor of the DB Contractor and Concessionaire.

The general nature of the specific clauses in Section 1.0 - Performance of Work establishes the expectation of timeliness for the completion of the work. For example, the following clauses from this section state:

"The [RS] Contractor will carry out and complete the Work:

- using Reasonable Efforts to enable the Revenue Service Commencement Date for each Commuter Rail Project to occur on or before the Revenue Service Target Date for such Commuter Rail Project,
- to enable the Revenue Service Commencement Certificate for each Commuter Rail Project to be obtained on or before the Revenue Service Deadline Date, and
- using Reasonable Efforts to enable Final Completion for each Commuter Rail Project to occur on or before the date falling six months after the Revenue Service Commencement Date for such Commuter Rail Project."

Other clauses within the same section continue this strong approach to timely completion.

5.2.3.1 Warranty Provisions

Warranty Provisions of the contract are considered reasonable. Some key provisions include:

- Work will be free from defects in materials and workmanship, and in any design or engineering furnished by the RS Contractor; any such defects will be repaired at the cost of the RS Contractor,
- Vehicles will be supplied free and clear of any claims, liens, security interests or encumbrances,
- Warranties apply as follows from Final Acceptance:
    - Carbody structure – 15 years,
    - Truck assemblies – 10 years, and
    - Everything else – 3 years.
- Any design and engineering, labor, equipment, and materials furnished by the RS Contractor in the initial delivery and repair of defects will be warranted by the RS Contractor for a minimum of 18 months, or the remainder of the warranty periods stated above, whichever is longer,
- If the Contractor fails to correct a warranty problem, the DB Contractor has the right to make the repair and seek payment for the cost of such repairs from the RS Contractor,
- The RS Contractor will provide at no cost to the DB Contractor all the necessary fixtures, jigs, special tools and diagnostic test equipment in adequate quantities to perform the warranty work, and all such equipment will be owned by the DB Contractor at the end of the warranty period,
- The RS Contractor will provide all labor to perform retrofit programs, correction of fleet defects and reliability program corrective actions,
- The RS Contractor will maintain a minimum of three qualified representatives to be available for the correctional work under the warranty, to be located at the CRMF and on-call 24-hours per day until the expiration of the Warranty Period,

- If a Car remains out of service for more than 48 hours, in a continuous period, during the 3-year Warranty Period, the Warranty Period for that car will be extended an additional day for each day of delay the deficiency is not corrected, and
- If there is a single failure mode that reaches 10 percent of the car population in a 12-month period, the Contractor will provide repairs, adjustments, or redesign and replacement for 100 percent of the fleet at no charge to the DB Contractor.

The above clauses are examples of the extensive and comprehensive nature of the clause that provide for correction of any problems found with the rolling stock during the Warranty Period. The LTA considers the Warranty Provisions to be reasonable and favorable to the DB Contractor and the Concessionaire.

The RS Contract is favorable to the DB Contractor, and covers singular and repetitive failures, but only during the warranty period. The remedy requirements and description of such failures are good for problems that arise during the Warranty Period, but there is no coverage for repetitive failures after the Warranty Period such as traction motors, which could take several years of service before identification of manufacturing or latent defects. The Concessionaire is protected as the OMR Contractor is responsible for any defects identified after the warranty period expires.

5.2.3.2 Inspection, Testing and Control

Inspection, Testing, and Control provisions are comprehensive and complete. These define the inspection and testing requirements both before and after the cars are delivered, and ensures that the DB Contractor has the right to witness any inspection or testing activity conducted by the RS Contractor.

This section also requires the RS Contractor to maintain ANSI/ISO/ASQ 9001-2008 registration through the end of the Contract. This ensures that the RS Contractor will follow a prescribed quality protocol, and that there will be a document trail for all design, manufacture, inspection and testing activities.

The RS Contract states that the RS Contractor will provide the DB Contractor with a schedule of deliverables, based on clearly defined milestones. This schedule must be approved by the DB Contractor. The LTA considers the milestones to appropriate, measureable, and demonstrable.

The clauses to compensate the RS Contractor for delays caused by changes implemented by the DB Contractor, Relief Events, and Force Majeure events that affect the RS Contractor completing their work, is well defined and to be reasonable.

Until the Initial Acceptance Date, the RS Contractor is responsible for preservation and protection of the material and equipment. If there is a Relevant Incident (Relief Event, Contractor Termination Event, DB Contractor Termination Event, or Force Majeure Event), the RS Contractor is allowed to seek some remedy if the cost of repairing the Affected Portion of the material or equipment is in excess of $5 million, or exceeds the likely amount of the Relevant Proceeds. There is a defined process to document this, and provide the Owner with the option to make the Restoration.

The Buy America clause states that at least 60 percent of the component cost for the rolling stock be American made. Although the car bodies are to be manufactured in Korea, the remainder of the cars will be fabricated at the RS Contractor's Pennsylvania facility, which is understood to meet the Buy America requirement.

There are extensive insurance provisions to cover all usual areas of such a contract.

5.2.3.3 Security Package

The RS Contractor must provide an irrevocable standby letter of credit of $1 million as proposal security, increasing to $2.5 million in the event of award of the Concession Agreement to the Concessionaire.

Security of 50 percent of the contract price is required by the RS Contractor. This security may be in the form of one or more Letters of Credit in the greater amount of 50 percent of the contract value or $40 million, with the remainder as a performance bond or irrevocable standby letters of credit. Following Final Acceptance of the last cars, the security may be reduced to 10 percent of the contract price during the remainder of the warranty period.

The RS Contractor must also provide a Parent Company Guaranty.

The Concessionaire's protection from the rolling stock Letter of Credit and Parent Company is indirect as this contract and subsequently the security package is between Hyundai Rotem (RS Contractor) and Denver Transit Systems (DB Contractor).

5.3 Interface Agreement Review

The LTA has reviewed the execution version of the Interface Agreement, dated July 8, 2010. This is an agreement between Denver Transit Systems, LLC (DB Contractor), Denver Transit Operators, LLC (OMR Contractor), and Denver Transit Partners, LLC (Concessionaire). The DB and OMR Contractors are collectively referred to as the Contractors. The same firms (Fluor and BBRI) are on both sides of the agreement, so interface should be a straightforward process. This agreement is attached to both the execution versions of the DB Contract and OMR Contract.

The general intent of the contract is to establish the processes and protections under which the Concessionaire, DB Contractor, and OMR Contractor will work together during the Design-Build Period, up to and including testing and commissioning of the system and the Design Build Warranty Period.

The purpose of this review is to confirm mitigation of risk to the Concessionaire with respect to the interface of the DB and OMR contractors during the period of this contract. Much of the contract specifies responsibilities between the DB and OMR Contractors, thus specifying ownership of risk between these two parties. This indirectly reduces overall risk to the Concessionaire by making clear the responsibilities of the Contractors, and how they will interact during the Project. In some cases, the terms of this contract specifically reduce risk to the Concessionaire. This is noted in the comments below.

5.3.1 General Principles

The parties to the contract acknowledge that each has received a copy of the other parties' contract and understand the issues thereunder.

The parties agree to cooperate with each other, and exercise reasonable efforts not to disturb each other in execution of their respective work.

The parties agree that there is no favor of one Contractor to another and the performance or non-performance of one party does not provide a defense for the other party's failure to perform their work.

The contract establishes a coordination committee, made up of representatives from each party in the contract, to facilitate the delivery of the Project. This committee will meet on a monthly basis, and will be maintained until the last Final Completion Date under the Design-Build Contract.

This LTA is comfortable that the general principles of the contract protect the Concessionaire from their subcontractors claiming ignorance of one another's scopes of work and responsibilities. This will mitigate the potential for the Contractors to blame one another for delays or changes, and provides a formalized committee to manage the interface process. This generally reduces risk to the Concessionaire.

5.3.2 Project Design and Changes

This is a very important part of the contract, and it clearly states the process that the two Contractors will follow in the design reviews, and the timeframes required for responses to

the design reviews. The rights and obligations of the change process are ultimately governed by the Concession Agreement, so in this sense, it is “back-to-back”.

The process provides a method by which cross-checks are made to prevent design inconsistencies between the construction and operations activities of the project. It is primarily intended to protect the OMR Contractor (and the Concessionaire) from design issues that would negatively impact the OMR Contractor from delivering their responsibilities during the operating period. However, it also provides the OMR Contractor an opportunity to submit ideas for changes that would improve the operating performance of the system.

The DB Contractor must exercise good faith efforts in consideration of design changes, but has no obligation to consider an OMR Contractor requested change if the change would delay or increase the DB Contractors work.

If a design element has the potential to negatively impact the OMR Contractor, there is a defined process for the OMR Contractor to assert that the design is non-compliant. If the DB Contractor chooses not to implement the change and it is in fact non-compliant, the DB Contractor is responsible to the OMR Contractor and Concessionaire for all damages incurred by the Concessionaire and OMR Contractor.

The LTA considers this process as reasonable and appropriate, and that it will reduce the risk to the Concessionaire from design inconsistencies in the construction of the Project that could lead to problems during operation. It also provides an opportunity for unforeseeable design improvements that can reduce costs and improve efficiency in both the construction and operating periods.

5.3.3 Commissioning and System Demonstration

The contract states the process and timeframes for cross notification and responses as the project is approaching Revenue Service Commencement, and the responsibilities of the parties to participate and cooperate in the testing and commissioning of the system, and demonstration of the Availability Ratio.

It clearly states that the Contractors indemnify one another for any damages incurred by one or the other that could lead to a delay in achieving Revenue Service Commencement other than when an act or omission of the DB Contractor results in a Change Order providing an extension or compensation to the OMR Contractor for adverse impact.

The OMR Contractor will assist the DB Contractor in preparing the Asset Registers.

The DB Contractor is allowed to use spare parts from the OMR Contractor inventory during testing and commissioning, which the DB Contractor will replace at no cost to the Concessionaire.

The Contractors will cooperate and coordinate their efforts to complete training for the relevant project staff.

The OMR Contractor will indemnify the DB Contractor from and against all damages incurred by the DB resulting from an environmental condition for which the DB Contractor is responsible under the DB Contract, and which was caused by the OMR Contractor.

The DB Contractor and Concessionaire will not make amendments to the DB Contract that will adversely affect the OMR Contractor without written consent from the OMR Contractor.

Any disputes are processed by the defined Dispute Resolution Process.

The LTA identified nothing unusual or unreasonable in this section, and no increase of risk to the Concessionaire.

5.3.4 Operating Period

The OMR Contractor is obligated to identify and promptly notify the DB Contractor of any potential or possible defects or deficiencies.

The contract gives the right for the OMR Contractor to take corrective action in the event of an unsafe or emergency condition and be reimbursed by the DB Contractor, including damages incurred by the OMR Contractor for the causal defect.

The contract states the process and timeline for the DB Contractor to respond to defects when there is no emergency or unsafe condition. If the DB Contractor does not respond in a timely fashion, the OMR Contractor has the right to take corrective action and be reimbursed for cost and damages.

The OMR Contractor must provide reasonable access to the DB Contractor to perform their work, and the DB Contractor must exercise reasonable care in performing their work so as not to interfere with the OMR Contractor.

The OMR Contractor has the right to prevent the DB Contractor from accessing locations which would cause interference to the OMR Contractor conducting its work, but the OMR Contractor must reasonably accommodate the DB Contractor at an alternate time.

The OMR Contractor must maintain a maintenance log available for review by the DB Contractor until the termination of the DB Contract.

The DB Contractor will indemnify the OMR Contractor from and against all damages incurred by the OMR Contractor resulting from an environmental condition for which the OMR Contractor is responsible under the OMR Contract, and which was caused by the DB Contractor.

The OMR Contractor and Concessionaire will not make amendments to the OMR Contract that will adversely affect the DB Contractor without written consent of the DB Contractor.

Any disputes are processed by the defined Dispute Resolution Process.

The LTA identified nothing unusual or unreasonable in this section, and no increase of risk to the Concessionaire.

5.3.5 Dispute Resolution Procedure

There is a well defined dispute resolution procedure for settling disputes between the parties to the contract. If the dispute is also subject to or relates to a dispute determined by the Concession Agreement Dispute Resolution Process, then the dispute under this contract is stayed until a resolution is reached by the procedures set forth in the Concession Agreement, and that the Concession Agreement resolution is binding.

The parties have a right to take an unresolved dispute to binding arbitration, and no damages outside of the terms of this contract, the OMR contract, or the DB contract may be awarded.

All parties are required to continue with their respective obligations during the dispute resolution process.

The LTA identified nothing unusual or unreasonable in this section, and no increase of risk to the Concessionaire.

5.3.6 Claims between DB Contractor and OMR Contractor

There is mutual indemnification between the DB Contractor and OMR Contractor for damages incurred and prevents either party from bringing claims to the other except as caused by an act or omission of the other party, and in either case, neither may bring claims to the Concessionaire for such related acts or omissions. In addition, any amount recovered under such indemnity shall not be subtracted from the maximum liability of the OMR or DB Contractor, respectively.

Any losses by either the DB or OMR Contractor cannot be paid from the security provided by the respective Contractor in its respective Contract with the Concessionaire.

This substantially protects the security packages provided to the Concessionaire by the OMR and DB Contractor, and insulates the Concessionaire from claims between the OMR and DB Contractor.

If there is a dispute regarding scope responsibility, this contract states that the Concessionaire will determine which of the DB and OMR Contractor are responsible for the work. The respective Contractor is then responsible for conducting the work, and neither the DB nor OMR Contractor may seek reimbursement from the Concessionaire for disputes over scope of work.

This protects the Concessionaire from disputes regarding scope of work that could lead to risk of delay.

5.3.7 Termination

The contract terminates if either of the DB Contract or OMR Contract terminated. The Contract automatically terminates if the Concession Agreement terminates. If the Concession Contract terminates and RTD exercises step-in rights, RTD can direct the Contractors to enter into a new interface agreement on terms substantially similar to those contained in the current Interface Agreement.

The LTA identified nothing unusual or unreasonable in this section, and no increase of risk to the Concessionaire.

5.3.8 Conflicting Agreements

If there is a conflict between this contract and either the DB or OMR Contracts, then DB or OMR Contract prevails, respectively.

The LTA identified nothing unusual or unreasonable in this section, and no increase of risk to the Concessionaire.

5.4 Construction Cost Estimate

5.4.1 Baseline Cost Data

Basic design elements, layout, and baseline data have been reviewed and found to meet industry standard for completeness, accuracy and presentation. RTD supplied a 30 percent design set on which to base the Proposal. The DB Contractor (DTS) elected to advance the engineering, where necessary, to accommodate some refinements and to form the basis of the estimate and schedule.

Quantities were developed by DTS's design partner Fluor/HDR Global Engineering and crossed checked by DTS technical staff.

The LTA is satisfied that sound baseline data was used.

5.4.2 Estimate Method

Fluor Enterprises Inc., the leading partner in DTS, is a large heavy civil contractor, possessing a state of the art computerized estimating system that was utilized to prepare a large part of this estimate and support the supplemental spreadsheets used to prepare the bid.

The work breakdown structure (WBS) of the estimate was logically developed and the LTA is comfortable that it is of adequate detail and scope to create analyzable summaries and provided meaningful input to the construction schedule.

The estimate included substantial input from DTS's key design partner Fluor/HDR Global. The LTA observed that DTS and the design team sought to optimize the general arrangements of the facilities with respect to constructability, and that DTS prepared means and methods schemes to capture the key features of the phasing and work plan.

The LTA is satisfied that sound estimating principles were followed.

5.4.3 The Estimate Analysis

The overall capital expenditure of the DB Contract is $1,269,196,983 broken into the following phases:

- Early Works - $9,611,801
- Phase 1 - $990,397,668
- Phase 2 - $269,187,514 (subject to escalation until notice to proceed)

To create a comparable metric, the LTA reviewed the cost elements of this project in terms of percentages of the overall estimated cost of the Eagle P3 Project presented to the LTA prior to the final submittal and is as shown in Figure 20. The final estimate was not presented in a format that would allow for this granularity, however, the LTA does not believe that these percentages would be significantly affected to change our opinion of the estimate.

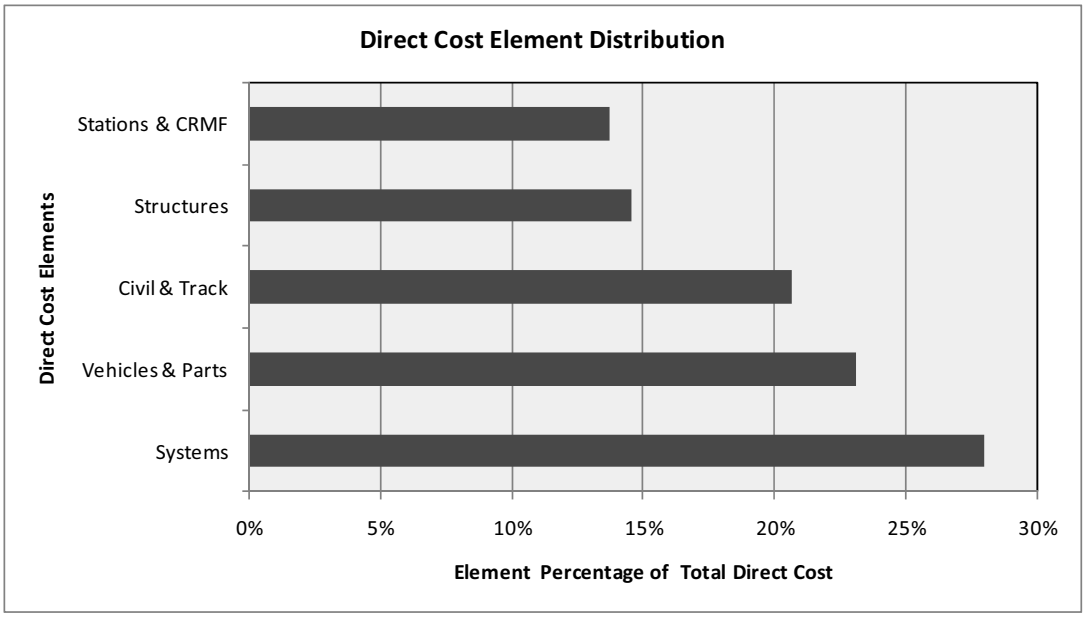


Figure 20 – Direct Cost Element Distribution

These percentages can then be packaged into direct costs, indirect costs, contingency escalation and profit. These are then compared with costs from other heavy civil infrastructure P3 projects with which the LTA is familiar.

5.4.3.1 Direct Costs

The chart below presents the main constituents of the base cost estimate. The primary elements are; labor, equipment, materials, and subcontracts. The bars represent the percentage of each base cost element as a percentage of the total direct cost. These are the main cost drivers of the project and represent 46 percent of the total capital cost.

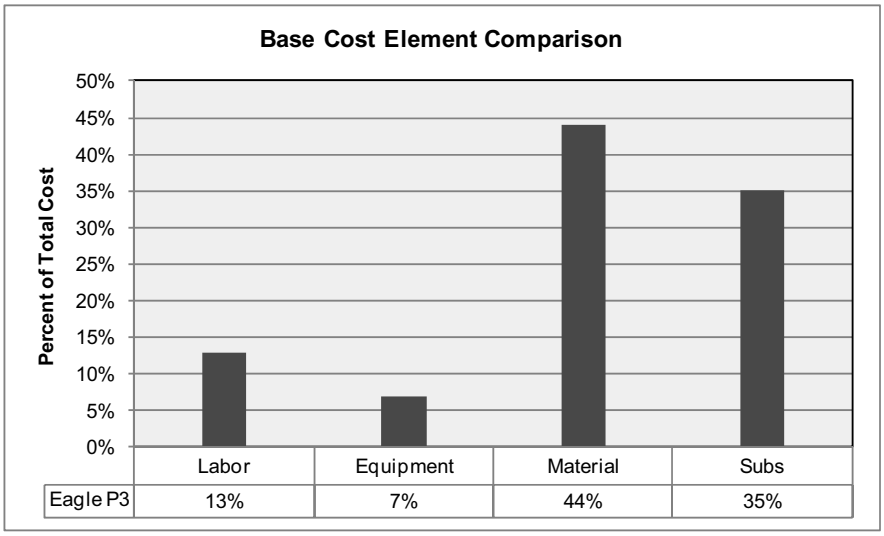


Figure 21 - Direct Cost Element Comparison

The LTA is satisfied that base cost element comparison percentages are within values of similar heavy civil infrastructure projects of which the LTA is familiar, and have formed the following opinion and conclusion:

- The LTA believes any risk of too few qualified professional, skilled craft, and unskilled labor is minimal. Given the current labor market, the cost of labor does not appear to be a major variable over the construction period. Estimated labor rates are influenced by the local prevailing wages. This risk is considered to be negligible,
- Availability of construction equipment is a typical concern. DTP has a process in place to evaluate lease vs. buy decisions, and is experienced in construction management. There is no highly specialized equipment required to construct this project that would not be reasonably available for the majority of heavy civil infrastructure projects. The LTA considers this risk to be negligible,
- Availability of construction materials is another typical concern. DTP has a process in place to evaluate materials suppliers and experience in vendor/supplier management. The LTA considers the risk of having access to available construction materials to be negligible based on current conditions,
- DTP is doing what it can to hedge against any future unforeseeable pricing of materials. Obviously, market pricing is subject to outside factors, and the LTA considers this risk to be in line with projects of this type and level of development, and
- The LTA believes any risk of having too few qualified bidders for sub-contracted services in the current economic environment is minimal.

5.4.3.2 Indirects

Indirects are cost elements that cannot reasonably be assigned to any one physical aspect of the work but are generally spread across all aspects. A Project Manager engaged in general project management assigned to this project is a good example.

Indirects for this project are at 32 percent of Direct Costs and are on the high end of the range seen by the LTA. However, the LTA finds this to be reasonable due to the large management team required to execute the Project in line with the terms of the Concession Agreement.

5.4.3.3 Contingency, Escalation, and Profit

The sum of estimated contingency, escalation and profit constitutes the risk mitigation package for the DB Contractor. The LTA is comfortable that in the aggregate, the risk mitigation amount is adequately accounted for.

It is Arup's opinion that the DB's estimated contingency on its own is somewhat low, and that additional contingency may be required during construction. It is also our opinion that the escalation and profit is reasonable and somewhat conservative for the risk profile of this project.

The LTA is satisfied that this project does not present any extraordinary risks that cannot be managed. In addition, the LTA is comfortable that the DB Security Package is sufficient to mitigate the risk to the Concessionaire from any contingency gap.

5.4.4 Conclusions on Construction Cost Estimate Process and Estimate

The LTA is satisfied that DTS has a solid understanding of the plans, specifications, agreements, scope of work and the resultant quantifications.

The LTA is satisfied that DTS put together a robust team that was well qualified to prepare the estimate.

The LTA is satisfied that DTS reasonably identified the breakdown of wages, materials, equipment, and identified subcontractors, and provided a realistic indirect cost projection.

The LTA is satisfied that DTS prepared an estimate that is consistent with the work-plan and estimated means and methods, and is sufficiently experienced in the Denver market.

The LTA is satisfied that DTS was mindful of risk elements as the estimate was prepared, and that the DB risk register is appropriately reflected in total risk mitigation (contingency, escalation and profit) that satisfies the perceived risk.

The LTA is satisfied that DTS has captured the entire scope of the project in their estimate, and that the developed estimate should be considered adequate and reasonable.

5.4.5 FTA Construction Cost Benchmarking

The LTA conducted a benchmarking exercise on the total construction cost of the Eagle P3 Project. This benchmarking assessment utilized data provided by the Federal Transit Agency (FTA) pertaining to funding public transportation systems in the United States.

The LTA selected rail systems based on FY2011 New Starts, which is the latest year available and contained seven reasonably comparable data points[33]. Each system in the New Starts database has different characteristics as compared to the Eagle P3 Project; however, these differences in characteristics can be explained when benchmarking to the Eagle P3 Project.

The table below shows the projects with unadjusted cost per mile (in millions of dollars).

Table 8 - Commuter Rail Cost per Mile

Project	Cost/Mile
Central Florida Commuter Rail	$ 11.2
Weber County to Salt Lake City	$ 13.9
Eagle P3 Project	$ 36.1
Miami-Dade North Corridor Extension	$ 163.6
Honolulu High Capacity Transit Corridor	$ 266.1
Dulles Corridor Metrorail	$ 268.6

The Central Florida and Salt Lake City projects have substantially less impact in city centers and highly urbanized areas as compared to the Eagle P3 Project.

The Honolulu project is in Hawaii and thought to include not only high land acquisition costs, but also some additional and incremental costs as compared to the Eagle P3 Project.

[33] http://www.fta.dot.gov/publications/reports

The Miami-Dade North Corridor Extension is thought to include high land acquisition costs as compared to the Eagle P3 Project.

The Dulles Corridor Metrorail is thought to include high land acquisition costs and much of it is in highly urbanized environments as compared to the Eagle P3 Project.

The LTA is comfortable that the estimated capital costs of the Denver Eagle P3 project are in line with industry standards.

5.5 Project Schedule

The LTA has reviewed the project schedule provided by DTP that was submitted with the Technical Proposal. The LTA is comfortable that the schedule incorporates all key elements of the Project, and considers it achievable with limited risk and some upside resulting from the possibility of shorter durations. In general, the schedule is dictated by ROW availability. The schedule reviewed is not cost loaded and it was difficult for the LTA to determine if the schedule durations were checked for consistency with the estimate productions.

5.5.1 Summary of Construction Schedule

The construction schedule shows a start date of June 30th 2010 (contract execution with Phase 1 Effective Date August 30th 2010) and a completion date of July 1st 2016 which is six months ahead of RTD's planned completion date of December 31st 2016. The schedule is highly dependent on ROW acquisition (by the owner) and utility relocation dates. Additionally, the schedule is constrained by the release date of the DUS Rail Segment (May 1st 2014) for the DB Contractor to perform their required work (the majority of the DUS Rail Segment work is being completed under a separate contract with RTD).

The work is sequenced between the three corridors using multiple work crews as a result of the separate Notices to Proceed (NTPs) for the Early Works-Phase 1, Phase 1, and Phase 2 work. Once the NTPs are received, construction work will be advanced on multiple fronts with, at times, up to twelve work sites active simultaneously. The LTA is satisfied that DTP has developed a low-risk schedule by generally applying conservative estimates to individual tasks, and incorporating float into the overall schedule.

Table 9 outlines the completion of some of the key milestones and the Revenue Service Target Dates of the three corridors. The Revenue Service Commencement dates follow the Revenue Service Target Dates by 18 months, and the Final Completion Dates follow by an additional 24 months.

Table 9 - Completion and Revenue Service Target Dates

Project Components	Date	Event
Early Works – Phase 1	October 25, 2012	Completion
DUS to CRMF	February 11, 2016	Completion
CRMF	April 15, 2014	Completion
DUS Rail Segment	November 28, 2014	Completion
Rolling Stock Delivery	July 16, 2015	Completion
East Corridor	January 29, 2016	Revenue Service Target Date
NWES	March 31, 2016	Revenue Service Target Date
Gold Line	July 1, 2016	Revenue Service Target Date

The LTA notes the following key points:

- The LTA is comfortable that the scheduled duration to design, procure and construct the Eagle P3 project is reasonable and achievable.
- The testing and commissioning of the systems is scheduled to begin 13 months prior to the East Corridor Revenue Service Target Date, with the NWES and Gold Line to follow. The LTA is comfortable with this schedule and considers 13 months a reasonable time to test and commission the rolling stock.
- The testing and commissioning of Rolling Stock is scheduled to begin six months prior to the East Corridor Revenue Service Target Date, with the NWES and Gold Line to follow. The LTA is comfortable with this schedule and considers six months a reasonable time to test and commission the rolling stock.
- The Revenue Service Target Dates for each of the corridors is well in advance of the RTD's latest allowable Revenue Service Target Date of December 31, 2016.

5.5.2 Schedule Benchmarking

It is difficult to benchmark construction schedules for projects such as this because there are many dependencies, particularly availability of real estate, the procurement process followed by the owner, and in some cases, the capital investment budget of the owner.

The LTA has conducted an "order of magnitude" schedule benchmarking analysis based on its professional knowledge of the industry.

The LTA suspects that there are inconsistencies in how actual schedules are reported for design-build projects (start of design or start of construction). In addition, there is little data available for the design stages of such projects. Therefore, it is only possible to make a broad and general statement on the construction stage, from ground breaking to revenue operation. Given that Denver Eagle P3 is a design-build project, the assumption is made that construction begins early, and is completed when the project is turned over for revenue service.

The Eagle P3 Project is estimated at 2.0 months per mile and this falls within the lower end of the expected range of 1.7 to 4.5 months per mile. The LTA is comfortable with this lower range due to the simple construction and multiple work front approach to the project.

5.5.3 Schedule for Design and Approvals

The overall project schedule includes 53 nested design and approval activities.

Design development for the various design packages vary from 108 working days to 225 working days with 22 working days allowed for agency reviews and an average of 15 working days allowed for issuing permits.

The LTA finds the agency review and permit issue times to be optimistic. The LTA notes that the Concessionaire may be granted relief for time in excess of 45 calendar days for any agency review, which is equal to roughly 30 working days. If all things were to remain equal, this could result in a delay to the Revenue Service Target Date of approximately two months. However, the LTA considers such a delay to the Revenue Service Target Date is very unlikely to happen. However, the DB Contractor retains this risk through the pass through provisions of the DB Contract; therefore, the Concessionaire is not at risk for such a delay if it were to happen.

5.5.4 Construction Schedule

The construction schedule has been structured utilizing the work breakdown structure (WBS) that was issued to by RTD. The LTA is satisfied that DTP divided up the work into manageable construction execution packages and logically sequenced those packages.

5.5.4.1 Project Segmentation

The project is broken down into 17 separate segments to facilitate management of the design, scheduling, project reporting, real estate property availability, utility relocations, construction sequencing, and integrated system testing and commissioning. Figure 22 identifies each of the 17 segments.

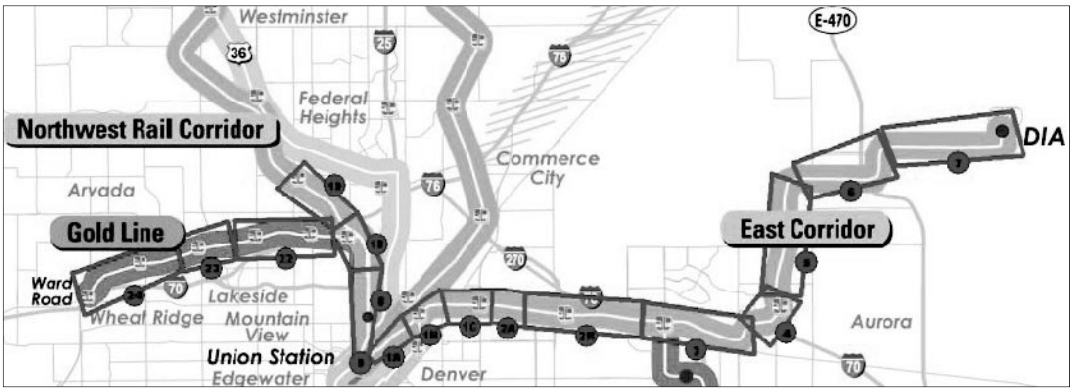


Figure 22 **- Project Segments**

5.5.4.2 Sequence of Work

The following is a description of the sequencing of work for the Project based on a calendar of ten hours per day x five days per week (10x5). All references to number of days are based on workweek days and not calendar days.

The LTA found no major concerns with the schedule durations and can confirm that it meets the requirements of the RTD.

Early Works – Phase 1: DTP intends to begin utility relocations for the Early Works - Phase 1 at outset (August 30th 2010) with civil works commencing in February 17th 2011 and finishing June 19th 2012. The UPRR trackwork is scheduled to commence on August 12th 2012 and finish March 26th 2012.

Phase 1 Work: The Phase 1 Effective Start Date is August 30th 2010. DTP intends to mobilize two separate crews for the work between DUS and the CRMF (NWES) and DUS to DIA (East Corridor).

Phase 2 Work: The Phase 2 effective start date is January 2nd 2012 with both utility relocations and civil work from Pecos to S. Westminster Station (NWES). The NWES civil work between Pecos and S. Westminster is scheduled to finish on March 16th 2016.

5.5.4.3 Critical Path Analysis

This construction schedule is driven by three key elements: (1) the timing of ROW acquisition, (2) utility relocations, and (3) the availability of the DUS Rail Segment. Below is a summary of findings after reviewing the critical path of the schedule.

Each corridor contains some critical path elements that must be completed to achieve the milestones. These include activities such as utility relocations, earthworks associated with drainage, installation of track work, installation of systems elements, station completions, and testing and commissioning of the systems and rolling stock. The LTA considers all of these as usual and reasonable critical path elements that can be managed. Where critical path elements are not covered by a relief event, such as ROW access, most are in the control of the DB Contractor and Rolling Stock Supplier. The LTA considers the Critical Path as manageable and that it carries little risk to the Concessionaire.

5.5.5 Schedule Conclusion

The LTA is satisfied that DTP has developed a robust construction schedule that considers how the various elements will be executed, and how long it will take to do this.

The LTA considers the schedule to be conservative, with little risk of not completing the work within the planned 6-year duration.

The LTA is satisfied that there is sufficient float to allow for lower than expected production rates.

The testing, commissioning, and acceptance period for the project is approximately 13 months for the East Corridor, 12 months for the NWES Corridor, and 13 months for the Gold Line Corridor. The LTA is comfortable that this is a reasonable duration to conduct the necessary work to complete these milestones.

The LTA considers the critical path elements of the schedule as usual and reasonable elements that can be managed. Where critical path elements are not covered by a relief event, such as ROW access, most are in the control of the DB Contractor and Rolling Stock Supplier. The LTA considers the Critical Path as manageable and that it carries little risk to the Concessionaire.

5.6 Longstop Date, Milestones, and Late Completion Payments

Building on the schedule review, this section focuses on the LTA's analysis and opinion on the adequacy of the following:

- Longstop dates under the Concession Agreement, DB Contract and the Lending Agreement
- Liquidated Damages and liquidity coverage through set off rights and Letter of Credit
- Step-in Milestone Adequacy

5.6.1 Longstop Dates

The Contracting arrangements are such that there are three separate longstop dates for the different project partners. The dates are identified for the Concessionaire, the Lender's and the DB Contractor.

Table 10 - Key Deadlines

Project Components	Revenue Service Target Date	DB Longstop Date	Lender Longstop Date	Concessionaire Longstop Date
East Corridor	January 29, 2016	August 1, 2017*	October 31, 2017	December 31, 2017
NWES	March 31, 2016	August 1, 2017	October 31, 2017	December 31, 2017
Gold Line	July 1, 2016	August 1, 2017	October 31, 2017	December 31, 2017

* If Phase 2 does not occur, February 29, 2017

If the Concessionaire is not able to achieve the Revenue Service Commencement within 18 months after the last Revenue Service Target Date (in this case the Gold Line), the Concessionaire would be in default of the Concession Agreement, thus their longstop date is currently December 31, 2017. During this 18-month time frame, the concessionaire will be closely monitoring the progress of the DB Contractor. The LTA considers this to be ample time to monitor and, if necessary, replace the DB Contractor for the remainder of the work. As discussed above, the LTA considers the construction schedule to have ample total float for each corridor and a comfortable testing and commissioning phase, during which time any significant problems are normally discovered early in the vehicle burn-in process.

The longstop date for the DB Contractor is established in the contract as five months prior to the Revenue Service Deadline Date (13 months following the last Revenue Service Target Date), currently August 1, 2017. Given the amount of float in the construction schedule, the LTA considers the risk that the DB Contractor doesn't complete the project by the DB longstop date to be low. The DB longstop date allows the Concessionaire a 5-month period until the Concessionaire's longstop date. During this time, the Concessionaire must re-hire a contractor to complete outstanding work. However, the Concessionaire will be well aware of issues prior to the longstop date; therefore, the LTA believes they will be contacting potential replacement contractors prior to the DB Contractor termination, allowing for a relatively quick remobilization, lessening the risk to the Lenders.

The longstop date for the Lenders is established at two-months prior to the Concessionaire longstop date, currently October 31, 2017. This two-months period is likely to be used by the Lenders to finalize renegotiation with the RTD on a Corrective Action Plan rather than a full replacement of the DB Contractor as this 2 month period would come after 16 months of delay of the Contractor and 4 months during which the Concessionaire had the ability to terminate and replace the DB Contractor.

As with the Concessionaire longstop, the Lenders will be well informed as to the progress of the project through the monthly Independent Engineer reports. The LTA believes that the Lenders will be well informed of any deficiencies and will have the opportunity and time to receive a Corrective Action Plan well in advance of the longstop date and with adequate time to gain RTD approval.

5.6.2 Liquidated Damages

Risks associated with schedule delays are passed down to the DB Contractor by imposing monetary payments for failure to deliver according to schedule. Liquidated Damage (LD) Payments apply to the following delays:

- Failure to achieve Early Work Completion Date, and
- Failure to achieve Revenue Service Commencement Date for any of the Commuter Rail Projects.

Liquidated Damages under the DB Contract are payable from the first day of delay beyond the Revenue Service Target Date on any corridor, and will be capped at 10 percent of DB contract sum. Obligation to pay LDs under the DB Contract is supported by:

- A Letter of Credit equal to six percent of the contract sum, and
- Set off rights of the Concessionaire.

Since the Letter of Credit provided by the DB Contractor is less than the LD cap, it is important to analyze the risk of the Concessionaire not being able to set off sufficient amounts to support the amount of LDs payable by the DB Contractor.

The maximum gap between the Letter of Credit available for draw and the maximum amount of LDs possible is approximately four percent (LD cap less the LC). Therefore if more than approximately 4 percent of the contract sum remains unpaid to the DB contractor when a delay starts becoming apparent, the LTA believes the Concessionaire won't experience any liquidity issues in collecting LDs from the DB Contractor.

The LTA conducted an analysis of the schedule to identify any significant tasks at and beyond the approximate 96 percent completion level which could potentially cause a delay of 18 months. By the time the construction has reached approximately 96 percent completion based on the DB Contract Exhibit C – Monthly DB Cost (scheduled in September 2015), the East Corridor will have been substantially complete, with all testing and commissioning completed, and only rolling stock burn-in and minimal final construction (fencing, landscaping, stations, etc.) to be completed. At that time, the Gold Line will be in the middle testing and commissioning, while the NWES will be just about complete.

Consequently, the LTA finds the risk of 18 months of delay following at approximately 96 percent completion to be small. Therefore, the LTA believes there is little risk to the Lenders from the approximate four percent gap. In addition, there would be parent company guaranties protecting the Lenders from such a gap, if it were to occur.

5.6.3 Step-In Milestones

To further protect the Concessionaire and the Lenders, a set of discrete milestones have been established to provide step-in provisions for the Lenders and the Concessionaire if the DB Contractor is not performing well.

The milestones under consideration are:

1. East Corridor Package 1 Design review submitted to City and County of Denver (10 Jun 2011),
2. Sandown Traction Power Sub-Station Mechanically Complete and prior to being energized (28 May 2013),
3. Argo Traction Power Sub-Station Mechanically Complete and prior to being energized (27 Jun 2013),
4. Airport/I-70 Superstructure Complete (28 Aug 2013),
5. CRMF Certificate of Occupancy Received (15 May 2014),
6. DB Contractor Initial Acceptance of Pilot Cars. Initial Acceptance testing completed in accordance with the Pilot Car Initial Acceptance Test Procedure (16 May 2014), and
7. Commencement of Integration Testing (in accordance with the Integration Testing Program Plan CDRL 7D08 and Integration Testing Procedures CDRL 7D09). This milestone is defined as the beginning of East Corridor integrated testing without vehicles (02 March 2015).

The LTA has reviewed these milestones and is satisfied that the above milestones meet appropriate “test” criteria, as follows:

- They are sequential in nature, and begin early in the construction process and progress over the construction period,
- They are measurable and can be confirmed and documented as being completed, and
- They must be completed in order to achieve Revenue Service Commencement.

If the DB Contractor does not meet any one of the above milestones, they will be required to submit an approved Remediation Plan. If the Contractor falls behind on the Remediation Plan, then such performance will constitute contract default.

In order to conform to the “back-to-back” nature of Section 23 of the CA, during the course of the Project, the Contractor may request to the Concessionaire to revise the schedule through a formal schedule change process including the lender step-in milestones. These schedule changes are subject to the Concessionaire and RTD approval, as well as the Lenders approval through the lending agreement (as advised by Macquarie). If the parties do not approve the change, the Contractor shall keep to the previously approved schedule. This provides the mechanism needed for the Contractor to adjust the schedule where appropriate, yet provide the Concessionaire, Lenders and RTD the ability to maintain control of the milestones. The LTA agrees with this approach.

5.6.4 LTA Summary

Delay Liquidated Damages are sufficient to protect the Concessionaire and the Lenders. There is sufficient liquidity to cover maximum delay LDs up to approximately 96 percent construction completion, at which point there is an approximately four percent gap.

However, incurring this gap would require 18 months of delay on all three lines after having completed 96 percent of the construction. The LTA has reviewed the scheduled tasks following 96 percent completion and believes the risk of such delays to be extremely small.

A set of step-in milestones have been developed to provide additional protection to the Concessionaire and Lenders, in the event of delayed or poor performance from the DB Contractor.

5.7 Approvals and Permits

As with all major construction projects, permits are required on this project and these fall into two categories, RTD Permits and Concessionaire permits.

The LTA has reviewed the design review and permit application periods contained within the Project Schedule, and DTP's approach, and is comfortable that they reflect the anticipated processing times for the permitting process. The LTA views the draft IGA's terms as favorable to the Concessionaire, and supportive to the permit acquisition process and the Concessionaire is covered under a Relief Event if the final IGA's are materially different from the drafts in the RFP. The LTA is also comfortable that the two RTD-approved alignment design changes, which could trigger a public comment process, are options that can be abandoned to return to the original RTD design, and expose little or no risk to the Concessionaire for delay. The LTA has reviewed the permit management process to be used by DTP, and agrees that it is a sensible and practical approach that will mitigate risk of delay. In combination with adequate provisions in the construction schedule, the risk of delay due to permitting issues is very low.

5.7.1 RTD Permits

RTD Permits include the FTA Record of Decision (ROD), United States Army Corps of Engineers (USACE) 404 Permit, and EPA Finding of No Signification Impact (FONSI). RTD has received, or is in the process of receiving, these permits. Delay resulting from RTD not supplying the Concessionaire with an RTD Permit is a relief event under the Concession Agreement.

5.7.2 Concessionaire Permits

Other permits are required on a federal, state, county and municipal level. There is generally some risk associated with delay to projects due to permitting, and it is important that the permit requirements are adequately understood and reflected in the Project Schedule being managed by the Concessionaire and the DB Contractor.

The LTA has reviewed the list of permits with DTP (refer to Section 3-B of Volume 4 of the Technical Proposal), and is satisfied that they have adequately considered all the necessary permits and the Design Review Period necessary to begin the permit application process, and the Permit Issuance Period required to obtain the permit from the respective entity. The Design Review Periods and Permit Issuance Periods have been incorporated into the Project Schedule, and RTD is in the process of negotiating Inter-Government Agreements (IGA) to support the permit acquisition process. These IGA's will significantly reduce delay risk from permit acquisition times.

The IGA's, currently in draft format, seek to provide mutually agreed approval times for design reviews and permit issuance from the various authorities with permit granting powers on the Eagle P3 corridors. Although final IGAs have not yet been signed, the LTA understands that the Proposers have been instructed by RTD to base their decisions on the most recent draft versions with any subsequent material changes to the IGA's that negatively affect the permitting conditions for the Concessionaire being considered as a Relief Event.

The IGA's require coordinated design reviews between the Concessionaire and relevant authorities at different stages of project design (e.g., 30 percent, 60 percent, 90 percent design completions). To minimize permit related delays, once the full (100 percent) design

package is approved, the Concessionaire plans to apply for all relevant permits on the affected segment together in one batch. Because the IGA's specify a response time for permit requests, permit reviews will be coordinated and potential delays for permit issuance will be minimized. These conditions will cover all permits to be granted by the counties, municipalities and other authorities along the route.

With two exceptions there are no permits subject to public comment, a process that adds risks to the project. The two exceptions regard the potential for a environmental re-evaluation due to proposed design changes, both approved by RTD, that result in shifting the alignment out of the established footprint approved in the FEIS.

On the Gold Line, there is a proposed lateral shift of approximately five feet at Pecos Junction to accommodate a pocket track to improve redundancy of the connection between the NWES and East Line. This change improves the reliability of the operations, but is not absolutely necessary. On the East Corridor, there is a proposed lateral shift of approximately 20 feet at the location where the line crosses over E-470 and Pena Boulevard. The original alignment plan would result in a longer and more complicated bridge. By shifting the original alignment, the bridge can be shortened and of simpler design. This change reduces the construction cost of the project, but is not necessary to operate the railway as planned.

For both locations, there is the possibility that the environmental re-evaluation could trigger a public comment period, and if it does appear to have the potential to cause delay, the Concessionaire can return to the original concepts which are already approved. Hence there is negligible risk to the Concessionaire.

An additional process DTP will use to mitigate potential delay associated with obtaining permits is dividing the design packages into segments to match the boundaries of local jurisdictions. While not practical for all segments, in those instances where the line passes through very short jurisdictional stretches, this approach will reduce the number of approvals required for the individual design packages. The LTA agrees with this approach.

5.8 Intergovernmental Agreements

The LTA reviewed Intergovernmental Agreements between RTD and relevant governmental agencies and local authorities to determine where such interfaces exist, how those interfaces are managed, and to understand impact to risk.

These agreements appear to be essential elements to the on-time delivery and operation of the project and provide both a clear framework in which the various jurisdictions, RTD and the Concessionaire will work together. These agreements are a means to ensure that terms are clearly understood between the parties, that the individual jurisdictions have certain rights and obligations, and that these rights are limited. These all reduce the risk to the Concessionaire.

It is clear that these agreements make each agency sign up for the Design-Build-Finance-Operate-Maintain (DBFOM) nature of the project; therefore, no agency can claim that they did not mean to allow a third party to execute what are essentially RTD's responsibilities under prior local funding arrangements, specifically the local contributions that voters approved in prior years. Accordingly, these agreements protect the Concessionaire.

Although not all the agreements are finalized, the agreements generally include the following elements:

- They recognize RTD's rights to develop, operate and maintain a mass transportation system. This prevents any jurisdiction from claiming that RTD is not the officially designated authority to execute this project.
- They call for coordination and cooperation between the jurisdiction and RTD and the Concessionaire. This is broad terminology designed to cover a number of items that might not have been specified in the agreement.

- They specify a joint plan review process at specific intervals. This prevents any jurisdiction from delaying the project by avoiding plan reviews.
- They specify a required response time for design reviews and approvals. This prevents any jurisdiction from delaying the project by failing to respond to design submittals.
- Where appropriate, they specify that the Concessionaire will have temporary street and construction easements needed to construct the project. This recognizes that construction will require special access rights in some areas for construction, and prevents a local jurisdiction from denying needed access.
- They generally specify approval of EMU operation. This prevents any jurisdiction from claiming it 'didn't know' or 'didn't approve' of EMU's that are to be used for this service.
- They state that needed permits will not be unreasonably withheld. This is broad terminology designed to cover a number of items that might not have been specified in the agreement.
- They designate liaisons that will act for the parties. This means that the jurisdiction must have a designated person for RTD and the Concessionaire to conduct their business and avoids passive delays by the parties.
- They generally specify a dispute resolution process.
- Most state specifically that the authority will not interfere with project implementation or operation. This is also broad terminology designed to cover a number of items that might not have been specified in the agreement.

The LTA notes that the Concession Agreement affords some protection to the Concessionaire in the event that a draft agreement provided by RTD is not executed or that a Third Party fails to respond to a request from the Concessionaire. If an Intergovernmental Agreement is executed after the Technical Proposal Due Date that is not consistent with a draft form provided by RTD, the Concessionaire may claim a relief event. Also, if a Third Party fails to review and comment on any Concessionaire Design Submittal within 45 days of the date submitted, the Concessionaire may claim a relief event.

The LTA notes that these agreements seek to substantially reduce interface and delay risk to the Concessionaire as well as RTD. Not every situation or potential point of conflict is specified in the agreements (nor could be envisioned by the drafters), but it is clear that there are numerous specific provisions for obvious requirements, and numerous broad provisions that apply to unforeseeable or unspecified situations.

The LTA notes that most of the agreements are still being negotiated and were reviewed in their draft form. However, it is clear that these agreements are designed not only to identify and specify terms between the various governmental agencies, but also to protect RTD and the Concessionaire from potential delays or other difficulties from the relevant authorities. The Intergovernmental Agreements substantially reduce the risk to the Concessionaire.

5.9 Railroad Agreements

The LTA reviewed draft and final agreements between RTD and the relevant railroads to determine where such interfaces exist, how those interfaces are managed, and to understand how such agreements affect project risk.

The parties to these agreements are RTD and:

- Burlington Northern Santa Fe Railroad (BNSF)
- National Railroad Passenger Corporation (Amtrak)
- Union Pacific Railroad Company (UP)

The major agreements are summarized below.

The LTA has been advised that further agreements with UP and BNSF will be forthcoming but will not be provided by RTD at this stage of the procurement. It is the LTA's understanding that if such future agreements impose substantial burdens that are material or excessive, such changes will be considered a change in conditions and subject to a

Relief Event. This relief is granted in the Concession Agreement, but in very broad terms related to Third Parties.

5.9.1 BNSF Agreements

A signed Memorandum of Understanding between BNSF and RTD is titled "Term Sheet and Memorandum of Understanding (Gold Corridor, Denver Union Station – 72nd Street)" was executed on July 10, 2009. This states that BNSF and RTD wish to negotiate mutually acceptable agreements for the Gold Line Corridor. It specifies the payments from RTD to BNSF for modifications between DUS and Pecos Street, and that future definitive agreements will set forth additional modifications between Pecos Street and 72nd Street. It states that BNSF will provide ordinary and customary design, engineering and construction for the modifications and that RTD will design and construct the improvements in accordance with plans and specifications. BNSF will review plans and specifications to confirm they are consistent with relevant exhibits and that such plans will not adversely affect the safe operation and level of utility of its track and related improvements. It states that BNSF will work cooperatively with Union Pacific Railroad to relocate the BNSF/UP interchange track.

A draft agreement between BNSF and RTD is titled "Joint Corridor Use Agreement between Regional Transportation District and BNSF Railway Company (DUS Corridor)". Most of the terms of this agreement pertain to the construction of the DUS corridor that is not part of the DTP project. However, RTD states in the reference data to the RFP, Railroad Documents for BNSF, "Joint Corridor Agreement Statement" that a Gold Line Corridor Joint Use agreement will look substantially similar to the DUS Corridor agreement.

The DUS Corridor agreement calls for the following conditions:

- Contractor to develop a joint emergency preparedness plan, terrorist response plan, and operating safety manual in coordination with BNSF's existing plans. BNSF has rights to comment within 30 days of receipt of these plans.
- RTD will secure all needed Permits and Approvals
- RTD shall not agree to any restrictions on BNSF freight operations
- RTD shall provide BNSF 30 day notice before construction
- RTD shall schedule joint meetings to inspect improvements
- RTD shall keep improvements in a structurally safe condition
- RTD shall avoid interference with BNSF operations
- RTD's contractors shall have to comply with and obtain BNSF safety certification
- BNSF shall supply flagmen at RTD's cost
- RTD shall maintain drains, culverts within the corridor
- The rolling stock shall be compatible with BNSF signal systems including modifications for positive train control
- RTD may be required to provide inter-track fencing between BNSF and RTD track at stations
- RTD shall provide railroad general liability insurance for commuter rail accidents that will include $200M for each incident and protect BNSF in case of its own negligence
- If needed, a dispute resolution process is required including potential arbitration

The LTA's understanding is that on April 1, 2010, RTD and BNSF signed final agreements that will enable RTD to purchase rail property from the Class I and relocate BNSF facilities to advance the FasTracks program. The LTA understands that RTD has not provided these final agreements to DTP, and therefore cannot comment on the final versions.

The LTA notes that these agreements could create scenarios in which delay occurs to construction, but such delays would most likely fall within the relief regime of the Concession Agreement. Any substantial change from the draft agreements to the executed agreements will be considered relief events; therefore, the risk to the Concessionaire is relatively small.

5.9.2 Amtrak Agreements

The "Amtrak Roadrailer Agreement at Union Station Denver, Colorado" between Amtrak and Denver Union Station Terminal (DUT) Railway Company is dated December 29, 1999. It allows Amtrak's use of certain facilities owned by DUT for Roadrailer Services and grants Amtrak a non-exclusive license for 1, 000 feet of track for Roadrailer Services. Addendum 11 specifically relieves the Concessionaire from performing obligations under the Roadrailer Agreement.

RTD had made clear that DTP's plans need to accommodate Amtrak operations at DUS and DTP has incorporated such requirements into its planning.

5.9.3 Union Pacific Agreements

The agreement with Union Pacific Railroad is titled "FasTracks Shared Use Agreement Boulder Industrial Lead/North Metro Line" and is dated July 25, 2009. It provides for RTD acquisition of an industrial lead and for shared use of certain portions of the lead. It specifies maintenance standards and that, after commencement date, RTD shall have exclusive control over and responsibility for the maintenance and repair of the Shared Use Facilities. It also states that UPRR grants a flyover easement to RTD (Aerial Easement) for the construction of a flyover bridge over UPRR tracks. It requires RTD to review plans at 60 percent, 95 percent and 100 percent design completion levels and requires UPRR to review plans within specified time periods. It also provides for a dispute resolution process.

The LTA is comfortable that the railroad agreement for the Flyover Easement does not impose any undue burdens on the Concessionaire and calls for generally standard terms for construction of a bridge over a railroad track. This imposes little risk on the Concessionaire provided design and construction is properly managed.

5.9.4 Concessionaire Protections provided in Concession Agreement

Attachment 22 of the Concession Agreement provides specific language that protects the Concessionaire from additional requirements related to the railroads, for example, being required to:

- Enter into ancillary agreements with the railroads
- Negotiate separate railroad and construction agreements
- Pay railroads for installation of new signal systems, fiber optics or other private utilities
- Pay railroads for additional work costs
- Pay for relocation of freight railroad customers
- Pay for costs not associated with the Eagle project
- Perform any obligations from the Surface Transportation Board related to relocation of railroad property

The LTA notes that the Concession Agreement affords some protection to the Concessionaire in the event that a draft agreement provided by RTD is not executed or that a Third Party fails to respond to a request from the Concessionaire. If a Railroad Agreement is executed after the Concession Agreement execution and is not consistent with a draft form provided by RTD, the Concessionaire may claim a relief event. Also, if a Third Party fails to review and comment on any Concessionaire Design Submittal within 45 days of the date submitted, the Concessionaire may claim a relief event.

5.9.5 LTA Findings

The LTA is generally comfortable with the railroad agreements although they lack the same level of protections from potential delays that the Intergovernmental Agreements afford RTD and the Concessionaire. For example, the railroad agreements do not specify response times, reviews of engineering plans, or supplying required flagging when working near railroad track.

The LTA has some concerns regarding the lack of a draft Joint Corridor Use Agreement with the Union Pacific Railroad but believes that such agreement will likely be similar to the

draft joint use agreement provided for BNSF, which the LTA finds little risk for the Concessionaire provided proper design and construction practices are followed.

The LTA notes that after service has been implemented, the primary contact between RTD and other railroads will be for Amtrak passenger services to DUS, and that joint operations on freight railroad track, or freight railroad operations on commuter rail track is not planned, nor is it contemplated. This minimizes risk to the Concessionaire from freight railroad operations after services are initiated.

6 Operations, Maintenance, and Renewals

6.1 OMR Contract Review

The LTA has conducted a technical review of the executed version of the Operations and Maintenance (OMR) Contract.

The LTA reviewed the executed version of the OMR Contract dated July 9, 2010. The parties are Denver Transit Partners, LLC (DTP) as the Concessionaire, and Denver Transit Operators, LLC, and referred to in this section as the OMR Contractor.

This section presents the key technical elements of the OMR Contract considered to be most relevant and interest to the Lenders.

The OMR Contract is substantially "back-to-back" with the RTD requirements as specified in the Concession agreement. The OMR Contract covers each of the key areas as defined in the Concession Agreement and passes on the responsibility to the OMR Contractor, providing significant contractual relief to the Concessionaire of the risks transferred from RTD to the Concessionaire, with respect to the ongoing operation, maintenance, and renewal of the Eagle P3 commuter rail services proposed to be provided by DTP.

The contractual requirements of the OMR Contractor are set out in considerable detail, and very much protect the Concessionaire. It is the LTA's overall findings that the OMR Contract is sound and consistent with the operating, maintenance and renewal requirements of Concession Agreement.

The following is an analysis and assessment of the key points considered by the LTA to be relevant to technical matters in the OMR Contract.

6.1.1 Term of the Contract

This is a 40-year[34] contract "back-to-back" with the Concession Agreement.

6.1.2 Operator's Responsibilities

The OMR responsibilities are clearly defined. The contract defines the procedural framework for the OMR to mobilize and then perform the operations, maintenance, and renewal of the Project. It clearly states that the OMR responsibilities are "back-to-back" with the requirements stated in the Concession Agreement.

6.1.2.1 Start-up, Commissioning, and On-Going Maintenance

The responsibilities for start-up, commissioning, and revenue operations is clearly stated. The section is very clear in ensuring the OMR Contractor is not an agent for the Concessionaire, and must make purchases and contracts in its own right.

It carefully separates the requirements of the rolling stock manufacture and supply contract and the OMR Contract. This ensures the responsibilities held by the Concessionaire and Hyundai-Rotem are not in any way confused with the responsibilities of the OMR Contractor.

It clearly states that the OMR Contractor is required to maintain the assets provided by the Design Build Contractor in accordance with the manufacturer's requirements.

This section contains clauses that are "back-to-back" with the Concession Agreement, including electrical energy usage, management of and interfacing with heavy rail train operations, labor provisions, and nominations of Key Staff.

[34] DTP, as part of its Financial Proposal, provided the RTD the option to reduce the duration of the Concession Period by 12 years. On the July 20, 2010 the RTD Board approved this Alternative Technical Concept for the 34 year concession period. Subsequently, Amendment 1 to the executed Concession Agreement is forthcoming; therefore, the executed contracts will be aligned accordingly.

6.1.2.2 Passenger Counting and Fare Collection Equipment

The contract defines the OMR Contractor's responsibilities for passenger counting and the separation of responsibilities for fare collection by RTD.

6.1.2.3 OMR Staff

The contract includes a provision allowing the Concessionaire to have particular OMR Contractor staff removed for cause, and does not allow the OMR Contractor to replace Key Staff without approval from the Concessionaire.

Liquidated Damages for non-approved key staff replacements are "back-to-back" with the Concession Agreement.

6.1.2.4 Environmental and Permitting

The contract passes all permitting and environmental requirements of the Concession Agreement relevant to operations, maintenance and renewal, and sites upon which such activities occur directly to the OMR Contractor.

6.1.2.5 Rolling Stock Replacement

The Contract requires the OMR Contractor to cooperate with the Concessionaire in replacing the rolling stock as envisaged under the Concession Agreement, and to cooperate with the Concessionaire and RTD in restoration activities following a Force Majeure event, and with the building of additional commuter lines in the Denver Area, including provisions for the OMR Contractor being requested to carry out additional maintenance as a result of the additional lines.

6.1.2.6 Compliance with Statutes

The contract requires the OMR Contractor to comply with all federal and state statutes. The OMR Contractor must comply with, or demonstrate good faith effort to the satisfaction of RTD compliance with, the Disadvantaged and Small Business Enterprises Program.

6.1.3 Intervention, Termination and Replacement

6.1.3.1 Intervention and Termination

Interventions by the Concessionaire and/or RTD due to emergency situations and poor performance by the OMR Contractor are clearly defined. The LTA considers the intervention thresholds for poor OMR Contractor performance to be reasonable, and to provide substantial protection to the Concessionaire from both a financial and managerial perspective:

- Intervention thresholds and rights for termination by the Concessionaire due to poor performance by the OMR Contractor are higher than stated in the Concession Agreement.
- The contract allows the Concessionaire to obligate the OMR Contractor to enhance the review and monitoring of operations in certain defined circumstances.

The contract also calls for the OMR to implement a Remedial Action Plan, if necessary, which the Concessionaire has the right to approve.

Table 11 - Contract Termination or Intervention Thresholds

Contract	Termination or Intervention Threshold
Concession Agreement Termination	Availability Ratio less than 85% for six of any eight months; or, Availability Ratio less than 80% for any two consecutive months prior to Final Completion Performance Deduction exceeds average of 3% of Adjustable Base Service Payment for six or more months of any rolling eight-month period; or, if a Persistent Condition* exists
OMR Review and Monitoring	Availability Ratio less than 95% for any four or more months of any six months rolling; or, Performance Deduction exceeds average of 2% of Adjustable Base Service Payment for four or more months of any rolling six-month period; or, if a Persistent Condition* exists
OMR Remedial Plan	Availability Ratio less than 90% for any four or more months of any six months rolling; or, Performance Deduction exceeds average of 2.3% of Adjustable Base Service Payment for four or more months of any rolling six-month period
OMR Contract Termination	Availability Ratio less than 89% for any five or more months of any rolling seven-month period; or, Performance Deduction exceeds average of 2.9% of Adjustable Base Service Payment for five or more months of any rolling seven-month period. The OMR Contractor fails to deliver a required remedial plan and such failure is not remedied within 30 days of written notice from the Concessionaire The OMR Contractor Final Completion Requirements are not fulfilled as of the Final Completion Deadline Date.

*A Persistent Condition is a Service Task Order that is not remedied within the required time specified in the O&M Specifications of the Concession Agreement

The time and performance criteria buffer between the OMR Contract and the Concession Agreement substantially protects the Concessionaire, and provides sufficient opportunity for the Concessionaire to intervene should the OMR Contractor demonstrate poor performance.

The Concessionaire may terminate the OMR Contractor for Cause. Termination causes are reasonable and well defined, and include non-performance, abandonment, breach of contract, non-payment to subcontractors, and other typical defaults.

The section also states that should the Concessionaire and/or RTD be required to intervene, the OMR Contractor will reimburse the Concessionaire and RTD for the costs of the intervention, unless it is a Force Majeure event.

The Contract defines the ability of the Concessionaire, RTD, their designees, and the Independent Engineer to make inspections and audits as deemed required by the Concessionaire or RTD.

6.1.3.2 Replacement of OMR Contractor

In the event of OMR Termination, the OMR Contractor is required to participate in and carry out the handover procedures as the Concessionaire (or RTD) considers necessary to take over the operations.

The LTA knows of several entities that have the qualifications necessary to take over the OMR responsibilities of this project, these include, Keolis-Nordic AB, Veolia Transportation, FirstGroup America, Stagecoach and Serco. Therefore, risk to the Concessionaire regarding replacement of an OMR Contractor is low.

6.1.4 Sub-contracts

The administration of sub-contracts is comprehensive and detailed, and clearly sets out the requirements that are in the Concession Agreement with respect to novation of contracts in the event of the termination of the OMR Contractor.

The LTA is satisfied that this provides little risk to the Concessionaire, and notes that the LTA is unaware of any Material Sub-Contractors expected to be engaged by the OMR Contractor.

6.1.5 Operator Compensation

The LTA has reviewed the OMR Compensation clauses and finds them to be favorable for the Concessionaire. The clauses protect the Concessionaire from the OMR Contractor not performing work properly or completely, or for not reporting work performed or services provided properly and completely.

6.1.5.1 Set-offs

The Concessionaire has the right to set-off any payments due by the OMR Contactor (including damages), including payments corresponding to any Traction Power Reimbursement Amount due or to become due from Operator to Concessionaire.

6.1.5.2 Payments for Pre-operation Services

Pre-operational services by the OMR Contractor to the Concessionaire will be paid on a fixed-fee basis. This reduces risk to the Concessionaire.

6.1.5.3 Monthly Operators Fee

This section specifies that the OMR Contractor will be paid according to the provisions of the Concession Agreement Attachment 11 (Service Payments). Of particular importance is that it clearly states that the Service Payments are the sole source of funds for payment to the OMR Contractor by the Concessionaire, and that the Concessionaire is not in fault for non-payment to the OMR Contractor if RTD does not pay the Concessionaire. This provides substantial protection for the Concessionaire.

There is the opportunity for excellent performance and extra services for the Availability Ratio Calculation to result in Service Payments in excess of the Base Service Payment. The OMR Contract includes such additional revenue as a “pass-through” of the Concession Agreement on that point.

6.1.5.4 Renewal Budget and Plan, Renewal Works Payments, and Reconciliation

The OMR Contractor has provided a schedule of renewal works to the Concessionaire, and will be paid on a monthly basis for the renewal work performed. The OMR Contractor carries the risk of the renewal work plan not sufficiently covering the required renewal work activities.

On an annual basis, the OMR Contractor will submit a 5-year forward-looking renewal work forecast and schedule, which is subject to review and revision by the LTA.

On an annual basis, an analysis of the Renewal Work Account will be made to determine if a variance exists in excess of the greater of $1 million or 10 percent of the year-forward forecast work, or the remaining undrawn OMR Letter of Credit is less than an amount equal

to 75 percent of the Required Security Amount then required, or the Availability Ratio was less than 91 percent in four or more months in any rolling six-month period in the previous year, or the Performance Deduction Percentage is greater than 2.3 percent in any four months or more in any rolling six month period in the previous year. If all of those conditions are true, then the OMR Contractor must provide a Letter of Credit, for the variance between original forecast renewal cost and estimated renewal cost for the budget year. This ensures that the OMR Contractor does not defer necessary maintenance, thus endangering the quality of the assets and service. This also substantially mitigates the risk to the Concessionaire of being left with a "bow wave" of renewals maintenance should it become necessary to replace the OMR Contractor.

6.1.5.5 Conditions of Payment

The contract specifies the conditions by which the OMR Contractor is paid by the Concessionaire. The LTA finds no technical reason the OMR Contractor could not comply and the provisions of this section protect the Concessionaire.

6.1.5.6 Operator Termination Payments

The OMR Contractor is entitled to Termination Payments only if the termination is by RTD Termination, Concessionaire Events of Default, or Other Termination (Force Majeure or other event causing the project to become unfeasible). The Concessionaire's exposure to OMR Contractor Termination Payments is limited by payments received for such from RTD. The Termination Payments calculation covers the usual and customary items, and is consistent with the Concession Agreement.

6.1.5.7 Relations to RTD Payments to the Concessionaire

The contract states that no undisputed payments required to be paid by Concessionaire to the OMR Contractor under the contract shall be contingent upon or withheld, delayed or reduced on account of Concessionaire's failure to receive any payment from RTD under the Concession Agreement to the extent (1) the Concession Agreement or applicable Law does not provide or allow for Concessionaire to seek a corresponding payment due from RTD, (2) any withholding, delay or reduction of RTD's payment to Concessionaire is due to a Concessionaire Caused Event, or (3) the payment owing to the OMR Contractor is for a modification requested by Concessionaire, but not requested or required of Concessionaire by RTD.

The LTA agrees that this is a reasonable clause for the OMR Contractor, and any risk to the Concessionaire is under their control.

6.1.6 Guaranty

The OMR Contractor will cause each Guarantor to execute and deliver a guaranty on a joint and several basis in favor of the Concessionaire as security for all obligations of the OMR Contractor.

6.1.7 Concessionaire's Obligations

The Concessionaire's obligations are covered, including the designation of a single point of contact for the OMR Contractor in the Concessionaire's organization, and rights of the Concessionaire to have staff present on-site at all times, access to inspections, and right to assign their own independent consultants to monitor the operations of the system.

The LTA has no concerns regarding this section of the contract, and notes that the terms are generally favorable for the Concessionaire.

6.1.8 Registers, Plans, and Reports

The contract clearly sets out the obligations placed on the OMR Contractor with respect to maintaining the Asset Register, the Lease Period Site Register, the Passenger Database and the diverse Plans (included in the Technical Proposal). This includes the daily, monthly, quarterly, and yearly reports required by the OMR Contractor to the Concessionaire.

The LTA considers the record keeping and reporting requirements to be reasonable, and adequate for the Concessionaire's routine monitoring requirements, and that the information provides mitigation of general OMR risks to the Concessionaire.

6.1.9 Environmental, Health and Safety

Environmental, health and safety matters are passed through from the Concessionaire to the OMR Contractor, including any issues arising out of the OMR Contractor performance of his works, such as chemical spills. The contract is favorable to the Concessionaire in this respect.

6.1.10 Warranty

The OMR Contractor warrants that the services it provides comply the with O&M requirements of the Concession Agreement, at their expense, and gives the Concessionaire the right to correct deficiencies, at the OMR Contractor's expense, if the OMR Contractor does not correct such deficiencies. All warranties on equipment and materials are passed through to the Concessionaire. This is favorable for the Concessionaire.

The OMR Contractor accepts responsibility for costs and expenses resulting from latent defect claims after the expiration of any respective warranty period for the period defined by applicable law. This protects the Concessionaire.

The Intellectual Property Rights of the OMR Contractor are protected, which is neutral to the Concessionaire.

6.1.11 Force Majeure

Force Majeure is consistent with the Concession Agreement. Where the Concession Agreement provides Service Payment provisions to the Concessionaire, this contract provides Monthly Operator's Payments provisions to the OMR Contractor. This is favorable for the Concessionaire.

6.1.12 Modifications

Modifications cover issues that can be foreseen from a range of change scenarios that might affect the contract during its long life. This includes changes forced on to the Concessionaire by RTD and changes in law. It covers all easily foreseeable change scenarios and provides for detailed actions to be taken by the parties arising from those changes.

From a technical perspective, what is important is that the OMR Contractor cannot indiscriminately make changes to the system or operations, and must follow a well defined process that includes Concessionaire and/or RTD approval. This is necessary to protect the Concessionaire.

The LTA considers the detail included to be sufficient to ensure that most change scenarios can be handled within the contractual framework, and that the Concessionaire will be protected in all cases.

6.1.13 End of Term Handover and Reinstatement Works

Handover at the end of the Concession Period is back-to-back with the obligation of the Concessionaire to provide assets with at least three years of usable life, including the making and paying for repairs to those assets not meeting handover criteria. The LTA finds no concerns with this section of the contract.

6.1.14 Dispute Resolution and the Partnering Program

The LTA considers the defined dispute resolution process to be fair.

The OMR is obligated to acknowledge and participate in the "Partnering Program" between the Concessionaire and RTD. Within the Partnering Program is the opportunity for re-pricing based on unforeseeable changes to costs, which could negatively impact the OMR Contractor's ability to continue to provide service. This is "back-to-back" with the Concession Agreement.

6.1.15 O&M Security Package

6.1.15.1 Limit of Liability

The Limit of Liability under the OMR Contract is equal to $67,978,884 and will grow with inflation during the concession period. The LTA considers this to be adequate and as good, or better, than what the LTA has seen on other projects.

The OMR Contractor's limit of liability does not include performance deductions, insurance, costs from Gross Negligence, or costs related to abandonment.

6.1.15.2 Letter of Credit

The OMR Contractor will be required to provide a Letter of Credit to the Concessionaire, in an amount of six months of the total Operator's Fee and Renewal Amount in the aggregate and will grow with inflation during the concession period. The LTA considers this to be adequate and as good, or better, than what the LTA has seen on other projects.

The OMR Contractor will be allowed to replace the LOC with a performance bond following the end of the financing period. The LTA considers the risk of using a different security instrument at that point in the project to be small.

6.1.15.3 Material Loss Analysis

The LTA has analyzed three possible, but unlikely, scenarios that might occur that would maximize the impact on the OMR Contractor. These are discussed in detail in Section 7.2 of this report.

6.2 Review of Operations, Maintenance, and Renewal Scope and Specifications

The O&M Specifications are sufficiently detailed such that Denver Transit Partners (DTP) have a well informed understanding of the requirements and expectations of RTD, and accordingly, can properly design and estimate the cost of providing these services. Furthermore, the LTA considers DTP's review and understanding of the specifications to be sufficient to properly plan and design the operating and maintenance regime needed to comply with the contract.

The LTA notes that the O&M Specifications call for close coordination and approval of many facets of operating and maintenance plans with RTD. RTD retains extensive rights of approval of plans and policies before implementation by the OMR Contractor. Accordingly, the Concessionaire will need to ensure that a positive and productive relationship exists with RTD throughout the concession period.

The LTA does not consider the provisions in the O&M Specifications to be particularly onerous or unusual for a commuter rail project of this nature.

6.3 Compliance with Operating and Maintenance Specifications

6.3.1 Compliance with O&M Specifications for Plans

The LTA has reviewed the draft plans submitted by DTP to RTD for operation, maintenance, and renewal of the commuter rail system.

The LTA finds that the current draft versions of the required plans address the key provisions in the O&M Specifications.

6.3.1.1 Safety and Security Plan

As with most plans required by RTD, DTP does not have to finalize the O&M Safety and Security Plans at the time of submission for the proposal to RTD. DTP must present the SSPP and SSP to RTD for review and approval before starting operations which is not until 2015.

The System Security Plan - O&M (SSP-O&M) and the Safety and Security Management Plan (SSMP) submitted by DTP generally appear to seek compliance, and while they are missing some required items, these don't have to be finalized for two years.

The LTA is satisfied that all the relevant information the LTA would expect to see at this stage of the project is there and most items are covered as required by the design guide.

The LTA is not concerned with the Safety and Security Plan documents being in draft form, as they are works in progress, and are not required to be completed until after the concession award date.

6.3.1.2 Simulation and Performance Modeling

The LTA reviewed detailed simulation modeling reports provided by SYSTRA using proprietary RAILSIM Simulation Software to determine whether DTP's operating plan could meet RTD requirements for headways and general system performance.

The simulation process started with conceptual drawings supplied in the RTD Request for Proposals (RFP) that were then continually updated as the design was refined by the DTP Team. Individual trains were simulated in isolation from end to end on each corridor (e.g., East, Gold, NWES), including station stops for passenger transfer, to ensure that RTD running time specifications were achievable.

Simulations of the complete network for the entire 24-hour operating plan were then conducted with all track in service and then with a series of simulated track failures. On time performance under each scenario was quantified and Time-Distance ("String") Charts were produced for review.

The simulation results with all track in service indicated that all revenue train arrivals at DUS were within the RTD on-time standard, except for one train that missed the 5-minute lateness threshold by two seconds. Arrivals at all other terminals on the East Corridor and the NWES line were within RTD specified on-time standards. Thirteen trains on the Gold Line were late but the maximum delayed train was less than 40 seconds outside the 5-minute on-time target. The string charts indicated a very regular and satisfactory operation for all three corridors. The permanently single-tracked sections were well accommodated by the operating plan and single-tracking had no effect on operations under normal conditions.

The LTA is satisfied with the modeling process and the assumptions used in conducting the simulations.

The LTA considers the 45-second dwell time assumed for stations to be conservative. The dwell time will likely be shorter by as much as half or more, especially with the use of high platforms at the stations. The dwell randomization process used in the simulations also tends to overestimate delays.

The simulation model used by DTP's contractor and the contractor performing the work is well recognized in the industry and appropriate for this type of application.

The modeling confirms the viability of the DTP service plan and uses reasonably conservative operating parameters, including station dwell time and operating speeds. The proposed timetable also included an extra 5 percent margin over the simulated running times.

The LTA is comfortable that the overall simulation process was robust and used best industry practices.

6.3.1.3 Fleet Requirements

The LTA reviewed the methodology and calculations for fleet requirements to determine whether DTP's operating plan and fleet maintenance plan could satisfy RTD requirements given the proposed vehicle acquisition plan.

DTP has selected the Rotem Silverline V vehicle for Eagle P3 services in which the cars will be arranged in married pairs with each vehicle type of similar design. The LTA is comfortable with this selection, with details about this given in the Rolling Stock Design of this report.

6.3.1.4 Running Times and Train Requirements

The scheduled running time for the Commuter Rail Network are based on SYSTRA's simulations which indicate that the scheduled end-to-end running times as specified by RTD are comfortably achievable. The end-to-end running times are shown in Table 12.

Table 12 - Scheduled Running Times

Line	Direction	Min
East Corridor	DUS to DIA	35
East Corridor	DIA to DUS	35
Gold Line	DUS to Ward	25
Gold Line	Ward to DUS	26
NWES	North	11
NWES	South	11

On the East Corridor, DTP allowed 10 minutes turn and recovery time at DIA and 26 minutes at DUS. This calculation showed that the East Corridor could operate with six trains with only 10-minute turn time at each end, but DTP allowed for an extra train set to permit the longer recovery times to add an extra degree of schedule reliability. On the Gold Line, DTP allowed for 12-minute turn and recovery time at each end of the schedule. On the NWES segment, DTP provided an ample 18-minute turn and recovery time at each terminus. The LTA believes that the terminal turn and recovery times provide for a high degree of schedule reliability. The overall headway, cycle time, and number of train sets are shown in Table 13.

Table 13 - Cycle Times and Train Requirements

Line	Service Period	Headway	Cycle Time	# Trains
East	Peak	15 min	105 min	7
East	Off-Peak	30 min	90 min	3
Gold	Peak	15 min	75 min	5
Gold	Off-Peak	30 min	90 min	3
NWES	Peak	30 min	60 min	2
NWES	Off-Peak	60 min	60 min	1

6.3.1.5 Vehicle Capacity

DTP calculated the capacity of each car using maximum loading standards provided by RTD and car design (discussed above). See Table 14.

Table 14 - Car Capacity Calculations

					Standees through 2029 @ 3.2 ft^2/pass.		Standees beginning 2030 @ 2.15 ft^2/pass.	
# Wheel chairs	Fixed Seats	Flip up seats	Total # Seated Passengers	Floor Area (sf)	Standees	Total Passengers	Standees	Total Passengers
0	84	6	90	256.8	80	170	119	209
1	84	3	88	256.8	80	168	119	207
2	84	0	86	256.8	80	166	119	205
3	84	0	87	249.0	77	164	115	202
4	84	0	88	241.2	75	163	112	200
5	84	0	89	233.4	72	161	108	197
6	84	0	90	225.6	70	160	104	194

Car passenger capacity was combined with RTD projections for passenger loading by year to estimate the percent of capacity occupied to ensure that sufficient capacity was available and less than 100 percent. The LTA agrees with the method and the calculations that indicate that seating capacity, given numbers of trains, headways, and car configuration, is sufficient using the passenger projections provided by RTD.

The car requirement and capacity summaries per corridor are as follows:

East Corridor

- Years 2015 to 2019, seven trains with two-car sets
- Years 2020 to 2044, seven trains with four-car sets
- Years 2045 to 2054, seven trains with six-car sets
- Years2055 to 2059 seven trains with eight-car sets

Gold Line Corridor

- Years 2015 to 2039, five trains with two-car sets
- Years 2040 to 2059, five trains with four-car sets

NWES

- Years 2015 to 2049, two trains with two-car sets
- Years 2050 to 2059, two trains with eight-car sets

6.3.1.6 Spare Cars for Maintenance

The LTA reviewed assumptions for vehicle maintenance including regular servicing needs, FRA inspection and testing requirements, and cleaning requirements. No spares are needed for these functions because these activities will be performed on evenings during the 8pm to 5am maintenance window. Programmed life cycle maintenance is scheduled for 90 day, 180 day, 1 year and 5 year intervals in addition to a 60 day cycle for detailed cleaning. DTP estimated that in 2020, the availability of two married pairs (four cars) will be required for programmed life cycle maintenance. The LTA is comfortable with this assumption.

6.3.1.7 Total Fleet Requirements

The total number of cars needed for operations is 50 (from 2020 to the second procurement by RTD). The fleet calculations, including requirements by corridor including spares, are explained below.

Adding the number of cars required by corridor to the anticipated number of spares for maintenance provides the total spare ratio for the fleet. DTP plans on procuring the entire fleet of 50 cars for the start of service even though they are not fully needed because it is less expensive to buy all of the cars at once instead of in two sets.

Table 15 - Total Fleet Requirements and Spare Ratio

Period	East Corridor Cars	Gold Line Cars	NWES Cars	Total Cars for Ops	Maintenance Spares	Spare Ratio	Total Fleet Needed
2015-2019	14	10	4	28	8	29%	36
2020-2024	28	10	4	42	8	19%	50
2025-2029	28	10	4	42	8	19%	50
2030-2034	28	10	4	42	8	19%	50
2035-2039	28	10	4	42	8	19%	50

Rolling stock replacement will be a major decision made prior to the 30th year in service. An analysis of fleet replacement versus fleet rehabilitation will be conducted including an evaluation of passenger amenities, energy consumption, performance limits, and maintenance requirements compared to state of the art equipment available at that time. This replacement/rehabilitation costs will be borne by RTD.

The LTA has reviewed the calculations for fleet size including car requirements for individual line operations and spares for maintenance and is comfortable with DTP's plan to purchase 50 vehicles for the first 30 years of the concession agreement for operations through 2035. Before 2035, RTD will determine additional rolling stock requirements (reference Figure 2.2 Attachment 7 of the RFP).

6.4 Staffing and Organizational Structure

The LTA reviewed the operating plan with respect to the O&M Contractor's proposed organization structure, staffing plan, staff ramp-up plan and general approach to compensation.

The proposed O&M organization is structured along traditional separation of technical disciplines and sub-disciplines within each arm of the organization. This type of structure permits logical interface of expertise between each layer of management hierarchy, for example, the technical capability and experience of the Transportation Manager naturally overlaps that of the Operating Rules Specialist. This type of organizational structure also ensures logical points of responsibility for both day to day organizational control and for corrective action when needed.

The overall organization has a singular head, the General Manager, which has overall responsibility and authority for every aspect of the contractor's operation, with several direct reports as shown in the following diagram:

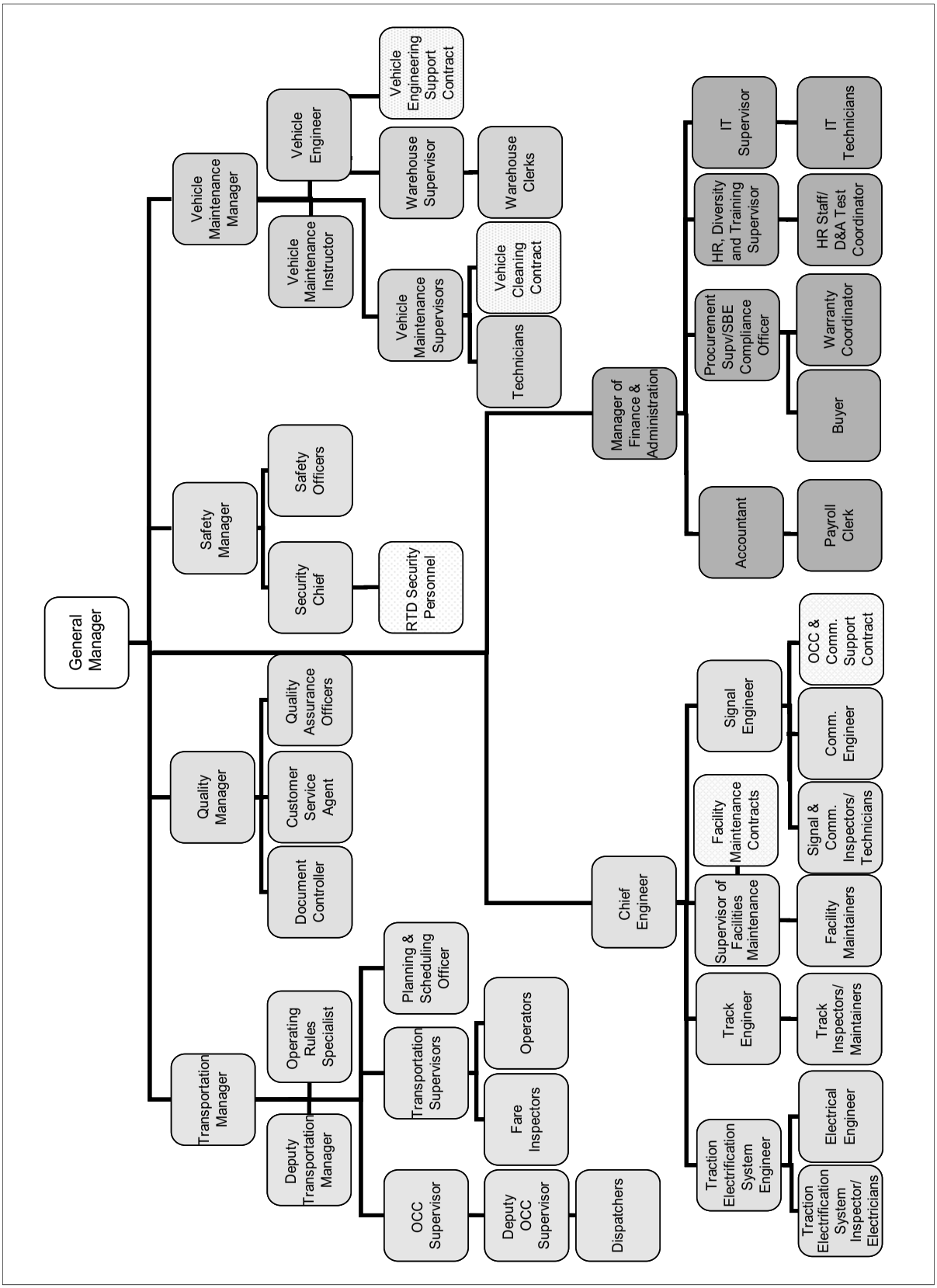


Figure 23 - Overall DTO Staff Organization

The General Manager's primary functions include:

- primary liaison with DTP and RTD staff,
- serve as the primary contact among operating entities, including the railroads using the same rights-of-way and third party contractors,
- oversee all operating and maintenance activities,
- assure the comprehensive training of all employees,
- manage all financial issues, and
- provide for safe, efficient, and on-time operation of the Commuter Rail Network.

6.4.1 Transportation Department

The Manager of Transportation will be responsible for managing the daily operation of the commuter rail service. This individual will be supported by a team of rail supervisors who will be responsible for daily service performance.

Staff reporting to the Manager of Transportation will include a Deputy Transportation Manager, Operating Instructor, OCC Supervisor, Deputy OCC Supervisors, Dispatchers, Transportation Supervisors, Fare Inspectors, Operators, and Planning and Schedule Officer.

6.4.2 Vehicle Maintenance

The Vehicle Maintenance Manager will be responsible for all vehicle maintenance activities and support functions.

The Vehicle Maintenance Department will include a Vehicle Maintenance Instructor, Vehicle Engineer, Warehouse Supervisor and Clerks, Vehicle Maintenance Supervisors, Vehicle Technicians. Cleaning services will be sub-contracted and managed by this department.

6.4.2.1 Infrastructure Engineering

The Chief Engineer will lead the Engineering Department, which includes all systems and Right of Way maintenance.

The Engineering Department includes Traction Electrification System (TES) Engineer, TES Inspectors/Electricians, Electrical Engineer, Track Engineer, Track Inspectors/Maintainers, Supervisor of Facilities Maintenance, Facility Maintainers, Signal Engineer, and Signal and Communications Inspectors/Technicians.

6.4.3 Finance and Administration

The Manager of Finance and Administration will be responsible for supporting the operating and maintenance divisions by providing timely and efficient supply of personnel, materials, and information to support system operations.

The Finance and Administration Department will include the Payroll Clerk, Accountant, Procurement Supervisor, Buyer, Warranty Coordinator, IT Supervisor and Technicians, HR Supervisor and staff. IT contracts will include licensing for payroll systems, HASTUS (vehicle and crew scheduling systems), Asset Works (maintenance tracking for vehicles, infrastructure, facilities and inventory). Other contracted services will include legal support and medical services.

6.4.4 Safety and Security

The Safety Manager will be responsible for the overall Safety and Security of the Commuter Rail System. The Safety and Security Departments will include the Security Chief, Safety Officers and RTD provided Security Personnel. RTD will have the main responsibility for security functions as specified in the proposed contract option that DTP will adopt.

6.4.5 Quality Management

The Quality Manager has primary responsibility for ensuring compliance with all ongoing RTD document requirements, customer service issues and responses, coordinating compliance with all regulatory requirements, quality assurance audits, and maintenance of

best practices for all departments. The Quality Management Department will include the Document Controller, Customer Service Agent, and Quality Assurance Officers.

The Customer Service Agent will be the dedicated point of contact for the RTD on issues related to customer complaints, concerns, suggestions and report findings. The Agent will also collect complaints, concerns, suggestions and commendations provided by customers directly to DTO staff and forward to RTD; support the RTD's public relations efforts by providing or coordinating tours, answering questions or providing information about DTO operations as requested by RTD; and maintain inventory control over printed materials and timetables provided and distributed by the RTD and notify RTD when supplies are low.

6.4.6 Staffing and Mobilization Planning

DTP has developed a detailed plan for mobilization that begins five years prior to the start of service. The mobilization plan includes three major sections:

- Staff Recruitment, Hiring, and Training of Staff,
- Testing, including: systems installation and integration, and vehicle delivery, testing and commissioning, and
- Development and implementation of plans, programs and systems in conformance with overall system needs and RTD Contract Data Requirements (CDRLs).

Staffing mobilization includes the hiring of a number of important positions that will manage all of the key functions described above.

An important consideration in developing staffing levels for both ramp-up and ongoing operations are extensive requirements for documents, reviews and ongoing RTD oversight. RTD's RFP includes a substantial number of Contract Data Requirements for submission of various plans, policies and procedures that RTD must review and approve before start of service. These plans and submittals are the responsibility of DTO and staffing mobilization must be sufficient to ensure timely delivery and modification if required.

6.4.7 Pay Rates, Salaries and Benefits

DTP's overall philosophy is to set pay scales, salary levels, and benefits to generally match those of RTD management and employees. The LTA's experience is that pay and benefits need to be competitive in the local market or the OMR Contractor will suffer from significant turnover, high training costs, and low levels of performance.

6.4.8 LTA Opinion

- The LTA is comfortable with the overall staffing level (presented to the LTA by DTO on March 31st) used to derive the staffing costs of the OMR price.
- The LTA finds that the organizational structure is logically designed for the technical requirements of operating a commuter rail system of this size.
- The LTA finds that DTO has appropriately considered the specific responsibilities, the approach to maintenance, operations, safety, and overall management needs in developing the DTO staffing plan.
- The LTA is comfortable with the proposed staffing levels for each of the key functional areas given the specific operating requirements, service levels, and technology employed by DTP, and the conditions imposed by RTD.
- The LTA has reviewed the staffing models used by DTO to develop the number of operating positions for train operations and finds these appropriate.
- The LTA has reviewed the staffing assumptions for vehicle maintenance and confirmed the overall vehicle staffing level is consistent with the industry average.
- The LTA has considered the specific conditions imposed by RTD and Contract Data Requirement List in developing its opinion.
- The LTA finds the approach to pay schedules and benefits well thought out and appropriate for the employment market that DTO will compete in.

- The LTA finds the staffing ramp-up plan adequate given requirements for overall recruiting, training, testing, development and implementation of plans, programs and systems in advance of service implementation.

6.5 Maintenance and Renewals Management

This section of the report is based on review of maintenance and renewals plan documents, as well as interviews with various design team and operations team leaders of DTP. Based on this, the LTA is comfortable that the DTP team fully understands the requirements of railway maintenance, and has a plan in place to properly and effectively maintain the railway. In addition, it is clear that thought has been given to implementing a design that will minimize overall maintenance and renewal costs over the life of the project.

6.5.1 Rolling Stock

There are two aspects of train maintenance: the need to maintain the functionality and performance of the trains, and the need to maintain the appearance and cleanliness of the trains.

The rolling stock will be mechanically and electrically maintained in accordance with the manufacturer recommendations. The maintenance cycle is to be based on the FRA 90-day brake inspection regime, where trains are brought in every 90 days and the base level services are carried out. The 90-day inspection cycle is required by the FRA to ensure that there is regular and very detailed inspection of all train braking systems.

Wheels will be re-profiled and replaced based on condition. The planned frequency of replacement cannot be determined until the trains are in service and wear patterns become established. However, the LTA has reviewed the track design and alignment, and number of left hand and right hand curves is similar so no asymmetric wheel wear or flange wear is expected. No chronic abnormal tread or flange wear or defect conditions are expected. Major mechanical parts such as air conditioners and bogies will be maintained through unit exchange programs, with these largely based on condition.

There is extensive condition monitoring on the trains. For example, items such as doors will be maintained when they report a change in the speed of operation through the condition monitoring program. Traction motors will be checked when bogies are exchanged, but only replaced on intervals recommended by the manufacturer of if a fault develops.

The LTA agrees with the proposed maintenance intervals, considers these as being consistent with industry best practices, and that such practices have been considered when setting the OMR price.

6.5.2 Track and Structures

The OMR Contractor has presented the LTA with their maintenance and renewal plans for the track and structures. The LTA is comfortable with the understanding the OMR Contractor has articulated for maintaining the track and structures, and their general expectations for the life of the assets. The component selections and maintenance plans for track and structures are consistent with industry best practices used in both within and outside of North America.

6.5.2.1 Track

Rail will be standard 115RE section rail installed on resilient pads, fixed with elastic fasteners. The majority of the tangent rail on the double track sections of the line should not require replacement during the concession period. The tangent rail on the single track section will likely require replacement once during the life of the concession, likely to be around 25 to 30 years into the concession. The tightly curved sections should require multiple rail replacements during the concession period. This is anticipated by the OMR Contractor, and the LTA is comfortable that the OMR's rail replacement assumptions are appropriately conservative, consistent with industry best practices and is being included in the OMR price.

Rail grinding is a necessary maintenance activity, and the OMR Contractor plans to contract this with specialized rail grinding company rather than have their own grinding train. The LTA agrees with this approach, and understands that until the system is in operation for several years, the actual grinding requirements will not be fully known. The LTA understands this and, as grinding is not an especially costly maintenance activity, does not consider this to be a significant risk. The LTA notes that the OMR Contractor will have adequate equipment to perform spot grinding as needed for routine maintenance.

On an annual basis, there will be routine maintenance on turnouts such as bolt tightening, alignment, grinding, and weld repairs of the individual components. The OMR Contractor is anticipating the above maintenance and replacement regime, and the LTA considers this to be reasonably conservative, routine and fully consistent with standard industry best practices.

Both direct fixation and ballasted track is being implemented, depending on the location of the railway. The ballasted track sections are being constructed to standard track designs that are appropriate to the usage of the railway. Ballast will be tamped as needed, based on track geometry measurements, with an expected cleaning/replacement at approximately 15 years. The OMR's assumptions are within expected ballast life of 400 to 500 MGT, and accounting for environmental degradation leading to fouling of the ballast. The LTA considers the OMR's assumptions to be appropriately conservative.

The LTA agrees with the OMR Contractors inspection regime, and understands that the OMR Contractor will make adjustments to inspection frequencies as needed.

6.5.2.2 Structures and Civil Works

Stations are of a simple masonry design, constructed of reinforced concrete stem walls with pre-cast platforms with the structure inspected annually, and are designed to last beyond the life of the contract.

The civil works (e.g., bridges, culverts, retaining walls, drainage) being constructed are predominately pre-cast and cast-in-place concrete spans, with some steel plate girders, and of both ballasted and direct fixation track systems. The structure designs are expected to require very little maintenance over the life of the concession, and to have useful lives in excess of the concession period. Retaining walls are expected to last over 50 years, and will be maintained through inspection and replacement of fill as needed.

6.5.2.3 Stations and Facilities

Station facilities include components, fixtures, furnishing, finishes and systems that are not part of the basic structure, but are essential to the proper functioning of the station. The LTA has no concerns regarding the OMR Contractors assumptions for station maintenance and renewals. The CRMF building is designed for a 50-year life, except for the roof, which will require one or two replacements during the concession period.

The LTA is satisfied with the plans for station facilities or CRMF maintenance and renewals.

6.5.3 Railway Systems

There are a number of systems that have to be maintained to enable the operation to meet its performance targets and to ensure the safety of the operation.

These systems are as follows:

- The train control system includes the operations control center (OCC), where all train and track and system based maintenance operations are controlled. Also included are the wayside signals, coded track circuits and the integrated automatic train protection system,
- The communication systems, and
- The overhead traction supply systems and the associated sub-station and traction supply and control equipment.

The train control and associated signaling systems will be maintained in accordance with industry practice. These systems are in use throughout North America. The required maintenance practices are well developed and DTP have adopted those practices. This will ensure that the signaling and train control operates reliably and will not impact on train reliability. The Positive Train Control (PTC) system that will be implemented will be maintained as part of the overall Train Control System. The maintenance procedures for PTC are still under development, and DTP will adopt the manufacturers recommended maintenance regime.

The traction supply system has two parts, the substations and associated equipment, and the overhead traction wiring system. The substations, switching gear and the fault protection equipment located at the supply points and have well established maintenance regimes. Wear on the contact wire will be measured every three years to five years to ensure worn out contact wire is replaced prior to it failing. Regular lubrication of the overhead wire tensioning pulleys will also be carried out by DTP, in accordance with good industry practice.

The LTA is satisfied with the plans for systems maintenance and renewals.

6.6 OMR Cost Estimate Review

6.6.1 OMR Cost Build-Up

The LTA has reviewed the cost estimate build-up worksheets for every major phase of the OMR Contract.

In its cost build-ups, the OMR Contractor used a combination of unit rates, including:

- Unit rates collected for the construction cost estimate,
- Budgetary estimates from manufacturers,
- Updated estimates from actual manufacturer and supplier proposals, and
- Budgetary plug numbers where the above sources were not available.

DTP used manufacturer (or designer) suggested asset lives and in some cases applied more conservative life-cycle estimates by reducing the suggested asset lives in their replacement assumptions.

Unit prices were multiplied by quantity estimates for each specific year of the Concession Agreement to develop year-specific budget estimates.

The LTA reviewed DTP's detailed spreadsheet build-ups of O&M and renewal expenses for every year of the agreement, as well as a detailed spreadsheet for the ramp-up costs prior to start of operations. The LTA reviewed the cost spreadsheets to confirm that they were comprehensive and detailed, and that the sub-total estimates added up to overall cost estimate.

The LTA is comfortable with the approach that DTP used in building up the OMR cost estimate.

The LTA confirms that the process stated to the LTA by DTP was followed, and the asset lives assumed in the cost build-up were consistent with those stated in DTP's OMR Plan, with some small variances that were generally on the conservative side.

6.6.2 OMR Cost Benchmarking

The LTA conducted a benchmarking study of the OMR Contractor estimate. The benchmarking study considered 22 commuter rail systems to compare projections from a 'top-down' viewpoint. The starting point for this analysis was the Federal Transit

Administration's database that identified commuter rail systems in the United States[35]. The most recent data available for this study is from 2008.

6.6.2.1 Vehicle Revenue Miles as Normalizing Factor

Vehicle Revenue Miles (VRM) is a common transportation industry metric that is calculated by the number of miles a vehicle travels in the performance of revenue service. The LTA chose Vehicle Revenue Miles as the most appropriate basis for normalizing operating expenses among comparable commuter rail lines. VRM's are a useful proxy for maintenance costs because track and rolling stock maintenance costs are generally variable with output on a mileage basis.

Track wear and tear is related to a combination of gross ton miles and car passes. Because VRMs incorporate both of these factors, it is a useful indicator for normalizing infrastructure costs.

Rolling stock maintenance is a combination of regular periodic inspections (a function of time) and equipment wear (a function of mileage). Of these two, equipment wear is generally the greater. Accordingly, VRM is appropriate for normalizing vehicle maintenance expenses.

VRM does not depend on patronage; therefore for the benchmarking purposes, VRM is a useful factor to normalize total operating expenses as well as departmental-level costs, particularly when availability is the main performance metric for a system, as will be the case with the Eagle P3 Concession.

The LTA utilized the year 2020 operating expenses (in 2010 dollars) for the comparable operating expense for the Eagle P3 Project. This year was chosen as a "simulation year" because the OMR contractor will have just started operating 4-car trains, warranties on most equipment and infrastructure will have expired, and the system components would start to experience a higher level of stress.

6.6.2.2 Comparable Size Systems

The data indicated a wide spread between small and large systems, with a range of 190, 000 VRMs (Nashville Regional Transportation Authority) and 64 Million VRMs (MTA Long Island Railroad). In other words, the largest system is 337 times the size of the smallest. In comparison, the Eagle P3 will generate 6,175,296 VRMs in 2020.

Because there is a substantial fixed cost component to any rail related operation, it is appropriate to exclude both very large and very small systems from the comparisons used for the benchmarking process. To accomplish this, the LTA excluded systems that were more than one standard deviation from the average based on VRMs. The upper end of this boundary (mean plus one standard deviation) was 36 million VRM. This step eliminated four large commuter rail systems from the benchmarking analysis. The lower end was negative; accordingly no small systems were eliminated in this first step.

6.6.2.3 OMR Contractor Cost Data

Based on the LTA's discussions with the OMR Contractor on April 24th, the total operating cost for 2020 was $38,709,836. At this time, the LTA reviewed the detailed make up of the operating cost including, vehicle maintenance, non-vehicle maintenance, operations and G&A expenses. The LTA was satisfied that these were all reasonable.

The LTA was supplied with final OMR Contractor costs and the year 2020 total operating cost was reduced by roughly three percent to $37,522,623. However, we were not supplied with the granularity of fee build-up, just the final cost. This variance is well within the margin of variance of year to year operation expense; therefore, it does not change our opinion.

[35] http://www.ntdprogram.gov/ntdprogram/data.htm

6.6.2.4 Removal of Cost Outliers

The LTA then used a ratio of total operating expense to Vehicle Revenue Miles (Total OE/VRM) to remove high cost outliers. The LTA conducted a statistical analysis of the remaining 18 commuter rail systems and eliminated commuter rail networks from the comparison that exceeded one standard deviation from the mean. This process removed three systems from the comparison group.

The LTA examined these 15 commuter rail systems for any gross irregularities. One area of particular interest is Non-Vehicle Maintenance operating expense (NVM OE) because of the wide variation in treatment of infrastructure costs in commuter rail systems. The LTA used the ratio of NVM OE to total OE (NVM OE/Total OE) to eliminate outliers related to infrastructure cost. This eliminated three systems; therefore, the remaining database included 12 commuter rail systems.

6.6.2.5 Comparable System Statistics

The LTA examined the total operating expense per Vehicle Revenue Mile (VRM) for the remaining 12 comparable systems. Year 2008 expenses were adjusted upward by four percent to normalize to 2010 OMR Contractor cost levels.

Two upward adjustments were added to the OMR cost estimate to maintain a comparable basis with the 12 commuter rail systems: a) an upward security cost adjustment of $2.9M because the OMR Contractor is electing to take the RTD security option, and b) a traction power cost adjustment to add in the cost for the 68, 878 Mega-watt hours that RTD is purchasing for this system (assumed to be $6,887,800). Both of these costs are normally borne by commuter rail systems. This results in an adjusted Eagle P3 operating expense of $47,310,432. This results in a Project operating expense per VRM of $7.66.

6.6.2.6 Analysis of Overall Cost

OMR total operating expense per VRM falls more than one standard deviation below the mean for comparable commuter rail systems. This is approximately the 19th percentile for comparable commuter rail operations. Figure 24 presents the trend of Operating Cost per VRM and clearly shows the dependency on utilization of equipment. As the rolling stock utilization goes up, the overall operating cost per VRM goes down.

The LTA is satisfied that the relatively low cost estimated for the Eagle P3 Project is consistent with the trend.

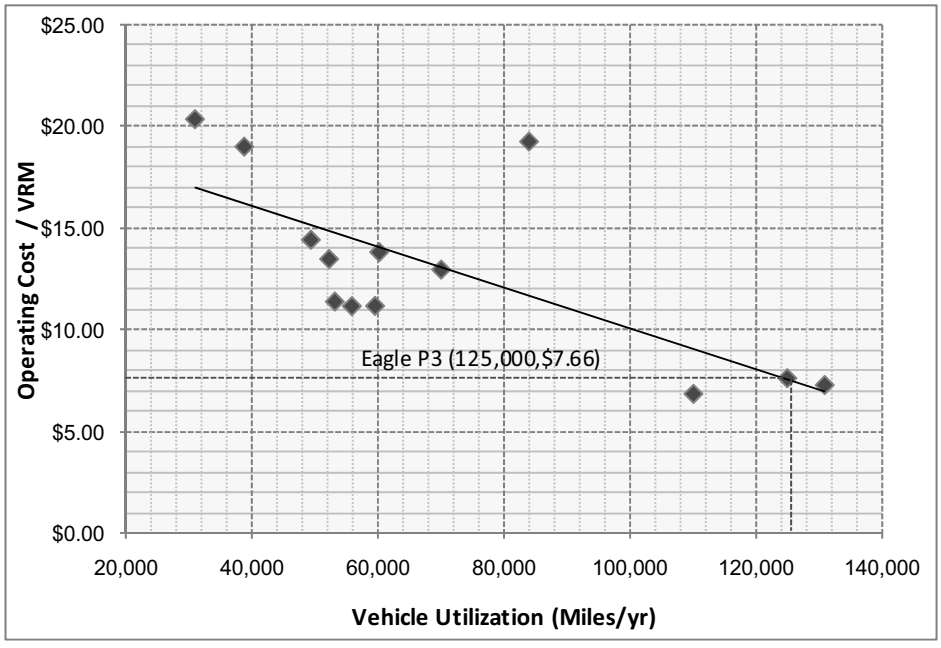


Figure 24 – Operating Expense and Vehicle Utilization Comparison

The following are the factors that the LTA considers as contributing to the overall low estimated operating and maintenance cost:

- high utilization of rolling stock,
- one operator per train (no conductors),
- automated fare collection system (no fare collection clerks),
- new labor force with lower legacy retirement system burden, and
- similar labor demographic base and commensurate pay rates and benefits.

6.6.2.7 LTA Conclusions

The LTA considers DTP's OMR estimate to be comparatively low, but when additional factors are considered, the estimate is within appropriate industry benchmarks. This provides confidence in the robustness of the overall OMR estimate. The LTA notes that new, modern purpose-built systems, infrastructure and equipment, combined with a more productive lower cost labor force are important considerations in this opinion.

6.7 OMR Contingency

The OMR contingency for this project was calculated using a Monte Carlo approach for each of the OMR stages; pre-revenue service, on-going annual operations and maintenance, and capital renewals estimates.

The pass-through provisions of the OMR Contract transfer OMR cost risk to the OMR Contractor. Therefore, the risk to the Concessionaire from a contingency gap is low.

The Partnering Program provisions in the Concession Agreement will allow the Concessionaire to work with RTD to adjust components of the OMR budget to account for unforeseeable events, reducing the risk of inflation above (or below) the specified indices.

The LTA has reviewed the assumptions and the methods used in developing the OMR price, and are comfortable that the process has been comprehensive and robust.

The LTA is comfortable with the estimated contingency values, and that they are consistent with values on similar projects. The LTA believes that any contingency gap would be small, and is comfortable that the OMR Security Package is sufficient to mitigate the risk to the Concessionaire from such a contingency gap.

7 Material Event Analysis

The LTA performed a liability analysis for both the DB Contract and the OMR Contract.

7.1 DB Contract Security Package Analysis

The Contractor's Security Package, as laid out in Articles 4 and 9 of the DB Contract, includes the following components:

- Parent Company Guaranty,
- Construction Security required under the CA,
- Letter of Credit set at six percent of Contract Value, and
- Limit of Liability set at 45 percent of Contract Value.

The LTA comments on the adequacy of these provisions below.

7.1.1 Parent Company Guaranty

The DB Contractor will provide joint and several Parent Guarantees from Fluor Corporation, a Delaware Corporation, and Balfour Beatty LLC (with a guaranty provided by Balfour Beatty plc, a public limited company organized under the laws of England). The LTA notes that the parent companies are both prominent international corporations that are leaders in the construction industry and, in our opinion, and given current conditions, have with the financial strength to satisfy liabilities incurred as a result of the Guaranty.

7.1.2 Construction Security required under the CA

On or before the earlier of the Early Work Commencement Date or the Phase 1 Work Commencement Date, the DB Contractor shall provide the Concessionaire with a bond in favor of RTD and the Concessionaire in an amount equal to the greater of (a) 50 percent of the total value of the work to be performed in any calendar year and (b) five percent of the total value of the work still to be performed as calculated on the first day of each calendar year.

The provision of this bond satisfies the statutory requirements and will allow the Concessionaire to comply with its obligations under the Concession Agreement.

7.1.3 Late Completion Payment Security

The Contractor shall provide a Letter of Credit (LC) in an amount equal to six percent of the Contract Sum on or before the Phase 1 Work Commencement Date, and if Phase 2 occurs, the amount of the LC will increase to six percent of the Contract Sum includeing the Phase 2 price. The Letter of Credit shall be reduced to three percent of the Contract Sum on Final Completion of the Project. The Letter of Credit shall remain in effect until one month after the expiration of the last Warranty Period or, if warranty claims are outstanding at that time, the date of resolution of all warranty claims.

The letter of credit has been sized to cover liquidated damages (LDs) from the Revenue Service Target Date for each segment to the Revenue Service Deadline Date taking into account the funds that would remain undrawn due to the Contractor's late completion. In the case of delay, the Concessionaire would first exercise its right to set-off against any balance owed the Contractor the amount of Liquidated Damages accrued. The Concessionaire would only draw on the LC once the available Project funds are exhausted.

LTA considers the LC amount appropriate and sufficient to cover Liquidated Damages in light of the set-off provision in the DB Contract.

7.1.4 Limit of Liability

The most reliable way to approach the analysis of the limit of liability is to perform a probabilistic analysis of the cost impacts of potential material events. A Monte Carlo

analysis was performed at both a 50 percent and 90 percent confidence to determine the liability as a percent of the contract price.

The following analysis provides a cost to complete quantum for material events analysis for the Project. The LTA notes that the analysis is based on events that while technically feasible were extremely unlikely to occur.

A number of potential material events were evaluated using a Monte Carlo analysis at both a 50-percent and 90-percent confidence. The results are shown in the table below.

Table 16 - DB Material Event Scenarios

#	Material Event	Description	Liability as a % of contract price[1]	Liability as a % of contract price[2]
1	Bridge Girder Collapse over I-70	Precast Bridge Girder Collapses over I-70 traffic leading to damage and traffic shutdown on I-70 along with shutdown for OSHA and DOT investigations	22	26
2	Bridge Girder Collapse over UPRR	Precast Bridge Girder Collapses over UPRR leading to damage and rail traffic disruption along with shutdown for OSHA and UPRR investigations	15	17
3	Systems Provider goes bankrupt	Systems Provider goes bankrupt or is terminated for non-performance requiring re-tendering of contract	9	10
4	HP Gas Line Penetration	High Pressure Gas line is penetrated by Contractor leading to local damage and shutdown while incident is investigated	7	8
5	Rolling Stock Provider goes bankrupt	Rolling Stock Provider goes a bankrupt leading to delay in rolling stock delivery	6	7

[1] @ 50% confidence

[2] @ 90% confidence

The LTA notes that the analysis has yielded a calculated liability exposure that on first glance appears to be smaller than might be expected. This is due to several elements of the Project which taken together limit the exposure of the Contractor to significant losses. These include:

- Project entails conventional straight forward construction and lacks unusual, complex, and/or significant structures such as tunnels or major bridges,
- Long corridor with inexpensive structures limit the damage associated with any one event,
- The project right of way does not present a major element of risk and is, for the most part, along an established rail corridor or greenfield,

- There are no major geotechnical challenges on the Project. The geography does not present any challenges in terms of access, environmental features, or mountainous terrain,
- Contractual Framework limits exposure to several key risks through the Force Majeure and Relief Event provisions in the CA, and
- Schedule allows for ample time to complete the project. There is opportunity for the DB Contractor to recover from delays by shifting resources, working multiple shifts, or weekends.

7.1.5 Aggregate Liability Cap

The calculated gross liability is in the range of 22 percent to 26 percent of the Contract Price (at the 50th and 90th percentile confidence intervals, respectively). This represents the LTA's assessment of the material event scenario for the construction, among multiple scenarios considered, involving a termination of the DB Contractor for the entire project.

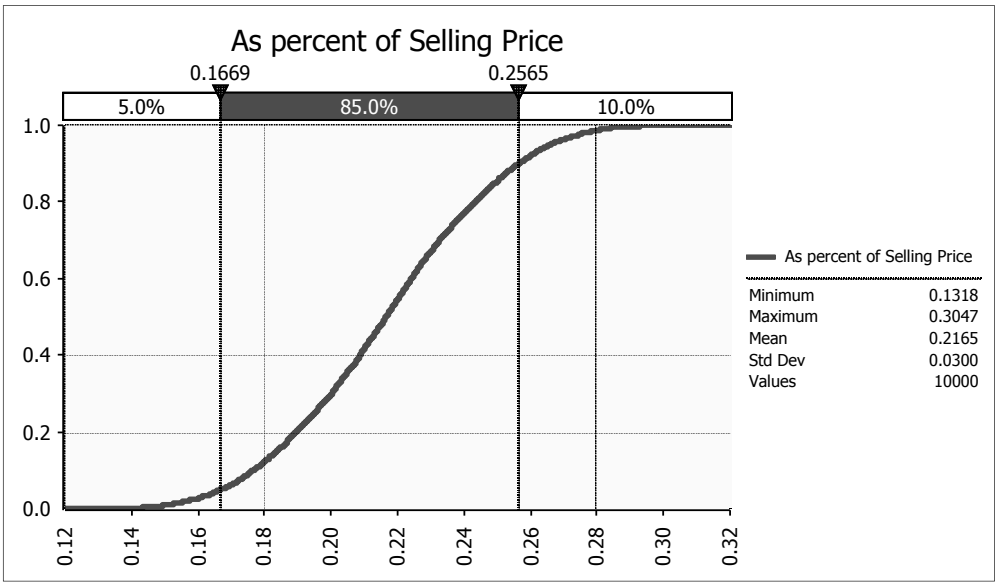


Figure 25 - Monte Carlo Simulation Results

Figure 26 presents the assumptions and input data used to calculate the aggregate liability for Scenario 1. The Scenario is based on the following assumptions:

- DB Contractor is terminated for cause at a point in the schedule that is appropriate for the scenario evaluated and results in a high liability,
- Remaining construction cost is based on DB Contractor's cash flow and assumes the Contractor experienced delays that reduced the amount drawn,
- DB Contractor carries positive cash flow relative to work completed,
- Replacement premium in the range of 10 percent to 30 percent due to limited competition and time to select replacement contractor[36],
- Added costs incurred by the Concessionaire and RTD as a result of the event and subsequent DB Contractor termination, and

[36] While in theory the original contract price should be sufficient to cover the remaining construction cost, the analysis assumes the replacement contractor would charge a premium on the original contract price due to the size, complexity and history of the project, the limited number of available replacement contractors (hence limited competition), and the limited time allowed to estimate the cost and fully understand the risks. While the level of premium is an uncertain variable, LTA considers the most likely value would be in the range of 10 to 15 percent with the upper end being 30 percent. A value of 20 percent has been used in this analysis.

- Liquidated Damages are accrued due to late completion.

Liability Cap Analysis - Eagle P3 - Bridge Girder Collapse over I-70 - Contractor Terminated
Worst case scenario: Precast Bridge Girder Collapse onto Interstate 70
Crane failure leads to precast girder collapse on I-70.
Major Media Event - OSHA, DOT Investigation
EPC Contractor Already experiencing delays due to miscellaneous issues
Assume Contractor is terminated after event due to non performance

	ITEM	Cost	Notes
1	Total Construction Cost remaining	$ 909,382,464	Amount undrawn (Assume 3-6 months behind prior to event)
2	Add back positive contractors cash flow	$ 20,251,303	Assume 1 month average monthly draw
3			
4	Costs to replace Prime Contractor	$ 181,876,493	Replacement premium (10%-30%)
5	Additional Mobilization	$ 33,344,024	Assume 1 to 7%
6			
7	SUBTOTAL COST TO COMPLETE	$ 1,144,854,283	
8	Remediation Works	$ 5,000,000	Replace Superstructure and miscellaneous other work
9	Additional Owner Costs	$ 1,000,000	Legal fees plus added oversight for gov. agencies
10	Additional SPV costs	$ 1,000,000	Legal fees plus added oversight and SPV direct costs
11	GROSS COST TO COMPLETE	$ 1,151,854,283	
12	Less funds remaining in the project (construction)	$ 909,382,464	
13	Less Insurance Proceeds	$ 4,250,000	Builders Risk
14	NET COST TO COMPLETE	$ 238,221,819	
15	Liquidated Damages	$ 47,450,000	Assume 3 to 6 months delay
16	**TOTAL ESTIMATED LIABILITY UNDER THE DB CONTRACT**	**$ 285,671,819**	
17	As percent of Selling Price (50% confidence)	**22%**	

Color coding:
Hard Input
Probability function
Stochastic Output

Figure 26 - Monte Carlo Simulation Results (Material Event Scenario 1)

Based on the above analysis, a limit of liability of 45 percent as set forth in the DB Contract is, in the LTA's opinion, is more than adequate to cover any potential liability incurred as a result of the DB Contactor's failure to perform.

7.2 OMR Security Package Analysis

The LTA considered three material events happening during the operating phase. Although the LTA considers these events to be very unlikely to occur, they represent possible major loss events.

7.2.1 Material Event Scenario #1

The first scenario the LTA considered was a collision between an OMR operated train and an Amtrak train at Denver Union Station (DUS). It was assumed that the collision resulted in a ruptured fuel tank on the Amtrak locomotive, resulting in a fire and destruction of one married pair (two cars) of OMR rolling stock and two Amtrak engines. Additionally, the trackwork located in the immediate vicinity of the incident would be damaged. From an operating viewpoint, damage in this critical area would effectively cut off access (or linking trackage) between the East Corridor and the Commuter Rail Maintenance Facility (CRMF).

Lacking access to the CRMF, commuter rail operations on the East line would shut down for an entire week, during which time a temporary connection would be constructed north of Union Station linking the East Corridor to the NWES and the CRMF. During this week, the OMR Contractor would initiate bus services along the East Corridor and a temporary passenger transfer facility would be constructed one mile north of DUS.

After one week, the temporary connection would be constructed with necessary train control modifications and passenger transfer facilities. Commuter rail operations would resume on the East Corridor (stopping at the transfer facility instead of DUS) and the OMR contractor would operate bus services between DUS and the transfer facility. This situation would continue for the balance of two months.

On the Gold Corridor and NWES segments, trains would continue to operate but would terminate at 41st Street Station and bus services would be initiated between 41st Street and DUS for the 1st week until the temporary transfer station is constructed. After one week,

Gold Corridor and NWES commuter trains would operate as normal except they would terminate at the temporary station instead of DUS.

The total estimated cost for this material event scenario is $18,699,000; but, it is assumed that the OMR Contractor's insurance will cover property loss, with a deductible of $500,000. It is also assumed that there is no coverage for operating revenue losses or other O&M costs.

Table 17 - OMR Security Package Material Event Scenario 1 Losses

Property Damage	Cost
Replacement of two commuter rail cars	$5,133,000
Replacement of two Amtrak engines	$5,133,000
Track costs	$450,000
Temporary station construction cost	$50,000
Total Property Loss	$10,766,000
Insurance Deductible	$500,000
Total Property Loss Impact to OMR	$500,000
Service Payment Deduction	$3,900,000
Other O&M Costs	
Busing Costs	$3,283,000
Concessionaire and Agency Oversight	$750,000
Total Other O&M Costs	*$4,033,000*
Maximum Loss	***$8,433,000***

In this scenario, the actual availability ratio (AR) is 55 percent for the first month and 69 percent for the second.

On its own, this event cannot trigger Termination Notice from RTD, it would require an additional four out of six months of the AR below 85 percent. Assuming this occurs and RTD initiates a Termination Notice, the Concessionaire would be required to submit a remedial action plan for RTD's review and consideration/approval. Irrespective of the actions by RTD, the OMR Contractor would be obligated to submit the remedial action plan by their contract with the Concessionaire.

The LTA anticipates that such an unlikely event, unless trailed by a history of poor performance, would not lead to Concessionaire or OMR termination.

7.2.2 Material Event Scenario #2

The second material event scenario the LTA analyzed was a train derailment at a bridge approach caused by loss of track strength and stability in the track bed located adjacent to a bridge approach. In this instance, the bridge would be located on the East Line just east of Peoria Station, preventing travel on the single track section and east to DIA Station. In this scenario, there would be damage to the bridge and trackwork, and two commuter rail cars would be destroyed. The affected section of track and the bridge would be out of service for two months while repairs were made. Bus services would be implemented between Peoria Station and the remaining stations on the East Line: 40th and Airport Station, and DIA.

The total estimated cost for this material event scenario is $12,206,664 but it is assumed that the OMR Contractor's insurance will cover property loss, with a deductible of $500,000, and there is no coverage for operating revenue losses or other O&M costs.

Table 18 - OMR Security Package Material Event Scenario 2 Losses

Property Damage	Cost
Replacement of two commuter rail cars	$5,133,000
Track costs	$450,000
Bridge structural repairs	$250,000
Total Property Loss	$5,833,000
Insurance Deductible	$500,000
Total Property Loss Impact to OMR	$500,000
Service Payment Deduction	$1,950,000
Other O&M Costs	
Busing Costs	$4,073,664
Concessionaire and Agency Oversight	$350,000
Total Other O&M Costs	*$4,423,664*
Maximum Loss	***$6,873,664***

In this scenario the Availability Ratio (AR) is 38 percent for both months.

As with the first scenario, this event on its own cannot trigger Termination Notice from RTD. It would require an additional four out of six months of the AR below 85 percent to reach the termination threshold. Assuming this occurs and RTD triggering a Termination Notice event in which the Concessionaire and OMR Contractor will submit a remedial action plan for RTD's review and consideration/approval.

The LTA anticipates that such an event, unless trailed by a history of poor performance, would not lead to Concessionaire or OMR termination.

7.2.3 Material Event Scenario #3

A third worst case scenario the LTA analyzed was extensive poor performance by the OMR Contractor that triggered termination under the OMR Contract. In terminating and replacing the OMR Contractor, the Concessionaire is taking action to prevent potential losses, and prevent triggering a Termination Notice under the Concession Agreement.

In this scenario, the original OMR Contractor performs at a level that causes the Availability Ratio to fall to 89 percent for four months at which time the Concessionaire serves notice for termination. The OMR Contractor submits a remedial action plan but performance does not improve after two more months have passed. At this point the Concessionaire initiates request for proposals for turnover of services, and a new OMR Contractor is selected and put into place within three months. The new OMR Contractor corrects the service performance over the subsequent three months, during which time, the availability ratio averages 93 percent. In total, the Availability Ratio is 89 percent for 12 months which is equivalent to an Availability Factor of 88.73 percent.

The LTA assumes that the majority of all staff is retained by the company taking over the operations. However, the General Manager, Transportation Manager, Deputy Transportation Manager, Quality Manager, and four Transportation Supervisors are replaced. All other employees are retained by the new OMR Contractor at no additional cost.

The incoming OMR Contractor negotiates a one-time mobilization fee of 20 percent of the annual OMR base revenue. This mobilization fee is assumed to cover costs associated

with finding qualified replacement staff, signing bonuses, relocation costs, legal and other administrative costs, and incentives to act quickly and correct the performance deficiency.

The total estimated cost for this is $22,135,900.

Table 19 – OMR Security Package Material Event Scenario 3 Losses

O&M Costs	Cost
Severance Payments	$550,000
Incentive Bonus	$8,400,000
Total O&M Costs	**$8,950,000**
Service Payment Deduction	**$13,185,900**
Maximum Loss	***$22,135,900***

7.2.4 Material Event Analysis Conclusions

In all cases, the maximum loss to the OMR Contractor is less than their Limit of Liability, and Letter of Credit amount, which mitigates the risk to the Concessionaire.

In Scenarios #1 and #2, it is not envisioned that such unlikely events would cause insolvency of the OMR Contractor; and, the LTA notes that unless such an event occurred following a history of poor performance, the LTA believes that an appropriate remedial action plan would be produced and approved by RTD, and the event would not lead to Concessionaire or OMR termination.

In Scenario #3, the Concessionaire has the ability to take pro-active actions to prevent the possibility of a Termination Notice of the Concessionaire by RTD under the Concession Agreement.

8 Project Environmental Compliance

The environmental compliance review of the Project consisted of both the federal regulatory planning requirements and the project specific environmental issues. This section focuses on the regulatory clearances and associated risks and mitigations, and presents the relevant Concession Agreement requirements.

8.1 Site Review

A comprehensive site review was conducted in February 2010 to assess existing environmental conditions in the project area as a basis for identifying any environmental issues not previously addressed in the environmental documentation.

Prior to the site review, the site plans for the East Corridor, the Gold Line Corridor, the CRMF, and the Northwest Rail Corridor were reviewed. Also the alignments of the Project components were reviewed using Google Earth.

8.2 Regulatory Compliance

Because federal funding is involved in the project, each project component requires the preparation of an Environmental Impact Statement (EIS), Environmental Assessment (EA), or other environmental documentation to comply with the National Environmental Policy Act (NEPA) depending of the significance of the associated potential environmental impacts. Once the environmental document is approved by the federal agency providing the funding, a Record of Decision (ROD) is issued (or Finding of No Significant Impact (FONSI) in the case of the NWES) that outlines what the project is approved to construct as well as identifying additional mitigation measures required to allow the Project to be constructed.

8.2.1.1 East Corridor

An EIS has been completed for the East Corridor and a ROD was issued by the Regional Administrator of Region 8 of the FTA in November 2009, thus approving that component of the Project. This action indicates that the East Corridor is in compliance with NEPA.

8.2.1.2 Gold Line Corridor

An EIS has been completed for the Gold Line Corridor and a ROD was filed by FTA in November 2009 signifying NEPA compliance and approving that component of the Project. Both of these environmental clearance processes also included the CRMF, demonstrating NEPA compliance and approval by the FTA.

8.2.1.3 Northwest Rail Corridor

The Environmental Evaluation (EE) for the Northwest Rail Corridor of the project was completed when the RTD Board of Directors adopted the Final EE in May 2010. Table ES-11 of the Final EE identifies the mitigation measures that will be required to construct and operate this component of the Project. It is understood that the Army Corps of Engineers (ACE) will use the information in the EE as the basis for its decision to issue a 404 Permit for the Northwest Rail Corridor. Given the information presented in the EE, the LTA is unaware of any reasons why the ACE would not issue the permit.

Based on the above, NEPA compliance has been achieved for the East Corridor and the Gold Line Corridor that includes the CRMF, as well as the Northwest Rail Corridor.

There will be low environmental risk in relation to NEPA compliance even if supplemental review is required for minor redesign of specific project components.

8.2.2 Mitigation Measures

Mitigation Measures are improvements that are identified in a NEPA document for a project to maintain its environmental clearance. Both of the RODs and EE for this project contains such requirements, but they do not stipulate who shall carry out the improvement. Therefore, RTD set forth Concessionaire Mitigation Responsibility Matrices for each corridor in Attachment 18 to the Concession Agreement. These matrices identify the mitigation

measures for which the Concessionaire is responsible, and the measures for which RTD is responsible.

To summarize the mitigation commitments required by the Concessionaire, DTP prepared their own matrices for each corridor, in which only those elements for which they are responsible are listed. These are located in Volume 3 of the Technical proposal, Section B.5 Construction Management Plan, Attachments B.5-1 through B.5-3.

The LTA is satisfied that DTP has recognized their mitigation commitments, and have included them their construction schedule and estimate.

8.2.3 Recognized Environmental Conditions

In addition to preparing NEPA documents, Phase I Environmental Site Assessments (ESA) and Phase II ESAs were completed to identify any known or potential hazardous materials that would impact the Project. Phase I ESA's typically address the condition of the underlying ground as well as the improvements to the property; however, they are based on a desk study and never include the collection of samples or any chemical analysis. Phase II ESAs are a more detailed assessment where physical samples are gathered from the site and a chemical analysis is performed to identify the presence of hazardous substances and petroleum hydrocarbons.

Due to limited site access, several Phase II ESAs were not able to be performed at stations along the Gold Line. This poses a moderate risk to the Concessionaire because Phase II ESAs must include reporting from field surveys with appropriate soil and groundwater sampling.

RTD provided Supplemental Summary of Recognized Environmental Conditions documents for both the Gold Line and East Corridor as part of Volume III the RFP. These documents identify many environmental hazards that need to be considered in project planning, but may never be encountered, especially adjacent to the existing super fund site near Federal Station. This poses a moderate schedule risk to the Concessionaire because these sites are now identified, and although RTD will compensate the Concessionaire for the mitigation work performed, the risk of delay due to known conditions is borne by the Concessionaire.

It is understood that remediation of the known sources of contamination will require complying with the requirements of the Colorado Department of Public Health and the Environment (CDPHE). While compliance with CDPHE requirements will involve implementing remediation actions that are not currently defined or agreed to, based on past experience working with CDPHE, the LTA is comfortable that compliance can be obtained with low risk.

8.2.4 Regulatory Compliance Summary

RTD has clearly identified the mitigations required of the Concessionaire. This approach significantly reduces risk to the Concessionaire because they can be accounted for in the estimate and schedule.

8.3 Concession Agreement

The Concession Agreement contains two primary sections in regards to environmental issues: Sections 12 and 13. Section 12 focuses on the process for environmental clean-up, and Section 13 outlines the requirements to carry out the mitigation measure commitments (discussed above). Key elements of these sections are presented below.

8.3.1 Voluntary Environmental Clean-up Work

Section 12 of the Concession Agreement identifies a process by which any environmental condition shall be mitigated. The process is as follows:

- If either party (Concessionaire or RTD) discovers an environmental condition prior to the commencement of the work, it must identify the discovery to the other party,

- The Concessionaire shall prepare an Environmental Condition Bid Report for the remediation work,
- The Concessionaire shall then submit an Environmental Condition Clean-Up Report to RTD relating to the environmental clean-up work, and
- RTD can either: (i) approve the report, at which time the Concessionaire proceeds with the work identified in the clean up report and submits an invoice each month for the duration of the work to RTD, or (ii) RTD can reject the report and retain the responsibility for the environmental work and carry out the remediation on their own.

The Concessionaire is responsible for any delay to the original baseline schedule caused by the removal, remediation, or clean-up of all environmental conditions, unless the delay is caused by an unidentified environmental condition, then the Concessionaire may claim a relief event. Additionally, the Concessionaire is not responsible for any delays associated with RTD retained remediation work.

At the end of the construction phase, if the total cost of the environmental clean-up performed by the Concessionaire and by RTD is less than $18,500,000, then RTD shall pay the Concessionaire 50 percent of the difference. This provides incentive to the Concessionaire to be as efficient as possible in managing environmental mitigations. There is no impact to the Concessionaire if the total cost is greater than $18,500,000.

This approach to environmental clean-up work has no additional cost impact to the Concessionaire, other than potential liquidated damages due to delays in remediation of the recognized environmental conditions. The LTA is satisfied that this poses relatively minor risk to the Concessionaire because the schedule has significant float in many of its segments, and constructing the Project in a segmented approach allows construction to continue in other areas if one area is undergoing environmental remediation.

8.3.2 Environmental Mitigation Plan

Section 13 of the Concession Agreement specifies that “the Concessionaire will carry out each aspect of the Eagle Project, and ensure that the Project Contractors and each of their respective Subcontractors perform its obligation, in each case, to fully comply with the … Environmental Requirements”. These include all project requirements of an environmental nature:

- the requirements and provisions of the RODs, the EISs, and the EE,
- the requirements and provisions of the 404 Permits,
- the requirements and provisions of any other permits relating to the environment, and
- other related requirements including the Concessionaire’s required Sustainability Plan.

The draft Construction Management Plan for the Eagle Project prepared by DTP addresses the overall construction management approach and specifies the requirements of an Environmental Mitigation Plan (EMP). The EMP identifies the DTP requirements with respect to:

- Construction Site Management Procedures,
- Wetlands and Water Resources,
- Archaeological or Paleontological Resources,
- Endangered Species,
- Migratory Birds,
- DIA Solar Facilities,
- Restoration of Ground Surfaces, and
- Release for Construction.

The Construction Management Plan includes a DTP commitment to a policy of Zero Environmental violations (ZEN), to a comprehensive environmental training program, and to an environmental compliance management process. It is generally in compliance with the Project Management Plan requirements set forth by RTD in their August 2009 administrative draft document.

Based on a review of both documents, the LTA concludes that the DTP document contains the necessary provisions to comply with the RTD requirements and that implementation of the EMP will result in low environmental and cost or schedule risks if followed during project construction.

8.3.3 Permits

Section 5.7 of this report provides a detailed discussion on permits including environmental permits. The LTA is satisfied that risk associated with obtaining the necessary permits and complying with their conditions is relatively low and manageable.

8.4 Environmental Summary

The LTA concludes NEPA compliance has been achieved for the various components of the Project. The NEPA documents specify required mitigation measures and the LTA concluded that DTP has outlined a solid approach for implementing the mitigation measures required by the various NEPA documents. The LTA also concludes that DTP has outlined the necessary steps for obtaining all required environmental permits and for ensuring compliance with permit conditions.

The LTA believes that there is risk of delay in availability of sites for construction if mitigation of an identified contaminant takes longer than expected. This could be mitigated from a project basis by the float that is currently in the schedule, and that construction can continue on other locations while a particular site is being remediated and prepared for construction. The LTA is satisfied that this risk is relatively manageable, absent other factors outside of the LTA's knowledge.

9 Summary and Conclusions

The opinions and conclusions contained herein are based on information received up to July 11, 2010. The LTA reserves the right to change our conclusions and opinions based on any changes subsequent to the delivery of this report.

Consortium Assessment

The LTA has assessed the experience, capabilities and suitability of the Denver Transit Partners Consortium to undertake the Project. The technical team is led by Fluor, the financial team by Macquarie. The firms working with Fluor and Macquarie are experienced in their respective fields, and have adequate know how in the delivery of large capital programs elsewhere. This is important in terms of the ability to manage the risks associated with large projects.

Risk Management Process

The LTA is satisified that DTP's risk management process is well defined and managed. The process observed by the LTA demonstrated risk identification consistent with the progress of design. The process provided representation and input from each of the various disciplines and functional areas in the proposal development and proposed project. The LTA is comfortable that DTP has applied a robust and well documented risk management process, and that risks were considered in a balanced approach.

Technical Review of Concession Agreement

The LTA is satisfied that the Concession Agreement to be reasonable from a technical perspective. The Service Payment Regime, Relief Events and Force Majeure clauses of the Concession Agreement are well defined, and favorable to the Concessionaire.

Service Payment Model Sensitivity Analysis

The LTA is that the Service Payment Regime is reasonable and that the penalty risk due to failure to meet performance objectives is manageable. Absent Concessionaire default, the Monthly Service Payment cannot fall below 75 percent. This is because the lowest achievable value of the Availability Factor is 80 percent, and the maximum value of the Performance Deduction Percentage (STOP points) is 5 percent.

Technical Specification and Design Review

The LTA is satisfied that the project technical requirements established by RTD and defined in the Concession Agreement, are reasonable, achievable, and consistent with industry best practices.

Rolling Stock

The rolling stock selected will shortly be in service in Philadelphia on the SEPTA system. The selection of proven technology about to enter service mitigates many risks associated with new rolling stock. In addition, the majority of the sub-systems will be the same as the SEPTA cars, reducing start-up problems for the Project.

Track

The LTA finds the overall track design to be reasonable and consistent with industry best practices. In our observation, there are no unusual or non-standard materials or construction required to build, operate, and maintain the track.

Communications and Control Systems

The LTA finds the communications and control system design is consistent with established rail standards and is conservative in its approach and is characteristic of a reliable method for sequencing in the industry. There is a risk with the implementation of the Positive Train Control system by the required timeframe because the technology is currently under

development. The selection of Wabtec as the PTC supplier positions the DB contractor to be on the forefront of the technologies development.

Civil Works

The LTA finds the CRMF and associated yard to be arranged logically and centralizes all the necessary elements to safely operate and maintain the rolling stock and infrastructure. The station designs are appropriate and typical for this type of project. The bridges, walls and other structures are common and industry standard for infrastructure projects. The utilities required for the project are typical and are what one would expect for this kind of construction. Overall, the LTA finds the risk associated with the civil works to be manageable by the DB Contractor.

DB Contract Review

The DB Contract is “back-to-back with the Concession Agreement, such that the design-build and rolling stock procurement obligations and risks have been transferred to the DB Contractor. Adequate deadlines and milestones, including step-in milestones, for the Design-Build work have been set to avoid termination of the Concession Agreement for causes attributable to the Contractor The LTA opines that the DB Contract contains an appropriate security package within its framework.

Rolling Stock Contract Review

The requirements for the rolling stock and requirements of the rolling stock supplier are clearly stated. There are clear statements of the basis for pricing and payments are progress based with the pricing set in US dollars and does not allow for adjustments due to currency exchange rate fluctuations.

The LTA finds that the Rolling Stock Contract protects the Concessionaire in the procurement and integration of rolling stock. The LTA finds that the contract is favorable to the DB Contractor and substantially transfers risk for rolling stock manufacture, delivery, testing and commissioning to the Rolling Stock Supplier.

Interface Agreement

The Interface Agreement establishes the processes and protections under which the Concessionaire, DB Contractor, and OMR Contractor will work together during the design-build period, up to and including testing and commissioning of the system and the design build warranty period. Much of this agreement specifies responsibilities between the DB and OMR Contractors, thus delineating risk between these two parties.Much of this agreement specifies responsibilities for the Contractors and how they are to interact. This indirectly reduces overall risk to the Concessionaire. The LTA notes that Fluor and BBRI are on both sides of the DB and OMR entities, which should further streamline the implementation of the project, and further reduce risk to the Concessionaire. In addition, since the Rolling Stock Contract is with the DB Contractor, and not the Concessionaire, the Concessionaire benefits from an additional level of protection in the procurement and integration of the Rolling Stock.

Construction Cost

The LTA is satisfied that the DB Contractor has captured the entire scope of the project in the construction cost estimate, and the LTA considers the estimate to be adequate and reasonable. The DB Contractor has reasonably identified the breakdown of wages, materials, equipment, and identified subcontractors, and has provided a realistic indirect cost projection. The LTA also believes the DB Contractor utilized a robust team qualified to prepare the estimate.

The sum of estimated contingency, escalation and profit constitutes the risk mitigation package for the DB Contractor. The LTA is comfortable that in the aggregate, the risk mitigation amount is adequately accounted for..

Construction Schedule

The LTA is satisfied that DTP has developed a robust construction schedule that considers how the various elements will be executed, and how long it will take to do this. The LTA considers the schedule to be conservative, with little risk of not completing the work within the planned 6-year duration assuming no other unforeseeable events intervene. The LTA is satisfied that there is sufficient float to allow for lower than expected production rates in certain areas and that the critical path elements on all corridors are manageable.

The testing, commissioning and acceptance period for the project is approximately 13 months for the East Corridor, 12 months for the NWES Corridor, and 13 months for the Gold Line Corridor. The LTA is comfortable that these are reasonable durations to conduct the necessary work to complete these milestones.

Operations, Maintenance and Renewals Contracts

The Operations, Maintenance and Renewals (OMR) Contract is “back-to-back” with the Concession Agreement, such that the operation, maintenance and renewal obligations and risks have been transferred from the Concessionaire to the OMR Contractor. Adequate criteria for the OMR Contractor have been set to avoid termination of the Concession Agreement for causes attributable to the OMR Contractor. In the event of poor OMR Contractor performance, this will allow the Concessionaire to implement opportune remedial actions to avoid termination. The Concessionaire has adequate time to terminate and replace the OMR Contractor, if necessary, due to inadequate performance. The LTA finds that the OMR Contract has substantially mitigated the risk to the Concessionaire for the operations, maintenance and renewal requirements of the project, and that an appropriate security package has been established that will protect the Concessionaire.

Operations, Maintenance and Renewals Requirements

The LTA has reviewed the OMR requirements by RTD, and the OMR plans developed by DTP. The requirements set by RTD are reasonable, and consistent with industry best practices for commuter rail. The plans developed by DTP for the start-up, commissioning, on-going operations, and renewal of the assets are reasonable, and consistent with industry best practices for commuter rail. The handover provisions and handover process at the end of the Concession Period are reasonable.

OMR Cost Estimate

The LTA considers DTP’s OMR cost estimate to be within appropriate industry benchmarks, and positively reflective of the high utilization of the rolling stock. The LTA has reviewed the assumptions and methods used in developing the OMR cost estimate. The LTA is comfortable that the process has been comprehensive and robust. The LTA notes that new, modern purpose-built systems, infrastructure and equipment, combined with high utilization of rolling stock and a more productive lower cost labor force are important considerations in this opinion.

The Partnering Program provisions in the Concession Agreement will allow the Concessionaire to work with RTD to adjust components of the OMR budget to account for unforeseeable events.

OMR Staffing and Organizational Structure

The LTA is comfortable with the overall staffing level as presented by DTO and finds that the organizational structure is logically designed for the technical requirements of operating a commuter rail system of this size.

The LTA finds the approach to pay schedules and benefits well thought out and appropriate for the employment market that DTO will compete in and finds the staffing ramp-up plan adequate given requirements for overall recruiting, training, testing, development and implementation of plans, programs and systems in advance of service implementation.

Maintenance and Renewal Management

The LTA is comfortable that the DTP team fully understands the requirements of railway maintenance, and has a plan in place to properly and effectively maintain the railway. In addition, it is clear that thought has been given to implementing a design that will minimize overall maintenance and renewal costs over the life of the project.

OMR Cost Estimate Contingency

The LTA is satisfied with the OMR contingency for each of the OMR stages; pre-revenue service, on-going annual operations and maintenance, and capital renewals estimates. The pass-through provisions of the OMR Contract transfer OMR cost risk to the OMR Contractor. Therefore, the risk to the Concessionaire from a contingency gap is low. The LTA believes that any contingency gap would be small, and is comfortable that the OMR security package is sufficient to mitigate the risk to the Concessionaire from such a contingency gap.

Material Loss Analysis

The LTA considered five construction events that included: a bridge girder collapse over a major highway; a bridge girder collapse over one of the freight railroads; a high pressure gas line penetration; the insolvency or poor performance of the systems provider; and the insolvency of the rolling stock provider. In all cases, using a probabilistic analysis, the LTA believes a limit of liability of 45 percent as set forth in the DB Contract is adequate to cover any potential liability incurred as a result of the constructor's or the supplier's failure to perform, and thus mitigates risk to the Concessionaire.

The LTA considered three material loss scenarios for the OMR Contractor. These included two catastrophic collision events and a replacement event by the Concessionaire of the OMR Contractor. Although the LTA considers these events unlikely to occur, they represent possible major loss events. In all cases, the material loss to the OMR Contractor is less than their anticipated Limit of Liability and Letter of Credit amount which mitigates the risk to the Concessionaire. In the two train collision events, the temporary drop in system performance could trigger Concessionaire Termination, but the LTA believes that an appropriate remedial action plan would be produced and approved by RTD, and the event would not lead to Concessionaire or OMR termination. In the OMR replacement scenario, the LTA believes the Concessionaire would take a pro-active action to prevent the possibility of a Termination Notice of the Concessionaire by RTD per the Concession Agreement.

Environmental Compliance

Arup has reviewed the environmental compliance of the project for both the federal regulatory planning requirements and the project specific environmental issues, and finds no significant issues of concern.

There is a well thought out approach for obtaining the requisite environmental permits for construction of the project and for implementing the mitigation measures required by law. The permitting process for the project has been managed well to date with most environmental permits already in hand.

The Concession Agreement provides a reasonable site mitigation process which relieves the Concessionaire from most of the risk associated with environmental clean-up.

The LTA is satisfied that DTP has outlined a well thought out approach for implementing the mitigation measures required by the various NEPA documents.

Terms and Acronyms

404 Permits – Clean Water Act Section 404-Permits to Discharge Dredged or Fill Material

$ – United States Dollars

AABSP – Availability Adjusted Base Service Payment

AAR – Association of American Railroads

AASHTO – American Association of State Highway and Transportation Officials

AC – Alternating Current

ACI – Alternate Concepts, Inc. & American Concrete Institute

ADA – Americans with Disabilities Act

Ames – Ames Construction, Inc.

Amtrak – National Passenger Rail Corporation

APTA – American Public Transportation Association

AREMA – American Railway Engineering and Maintenance-of-Way Association

ASX – Australian Securities Exchange

ATC – Automatic Train Control

BBRI – Balfour Beatty Rail Inc.

BLS – Bureau of Labor Statistics

BNSF – Burlington Northern Santa Fe

BSP – Base Service Payment

CA – Concession Agreement

CCD – City and County of Denver

CCM – Compliant Car Miles

CCS – Communications and Control System

CCTV – Closed Circuit Television

CDOT – Colorado Department of Transportation

CDPHE – Colorado Department of Public Health and the Environment

CDRL – Contract Data Requirement List

CFR – U.S. Code of Federal Regulations

CMP – Construction Mitigation Plan

Commuter Rail Network –Commuter Rail Projects, the CRMF and the DUS Rail Segment

Commuter Rail Projects –East Corridor project, the Gold Line Project, and the NWES project

Concession Agreement – The agreement between the RTD and the concession company governing the terms and conditions of activities to be performed for the Project

Concessionaire – Responsible Party granted the Concession Agreement by the RTD

Consortium – AKA the Denver Transit Partners Team, a consortium comprised of Fluor, Macquarie Capital, Ames, BBRI and ACI

Corps – United States Army Corp of Engineers

CPI-U – Consumer Price Index for All Urban Consumers

DB – Design-Build

DB Contract - The agreement that sets out the design, construction and rolling stock rights and obligations of the DB Contractor

DB Contractor - The Design-Build Contractor, a joint venture between Fluor, and BBRI

DB subcontractor - The Design-Build Subcontractor, a joint venture between Fluor, Ames and BBRI

DC – Direct Current

DBE – Disadvantaged Business Enterprises

DBFOM – Design, Build, Finance, Operate & Maintain

Denver Transit Partners – A partnership between Fluor (a wholly-owned subsidiary of Fluor Corporation), and Macquarie Capital (an indirect and wholly-owned subsidiary of Macquarie Group)

Denver Transit Partners Team – AKA the Consortium, is a consortium comprised of Fluor, Macquarie Capital, Ames, BBRI and ACI

DIA – Denver international Airport

DMU – Diesel Multiple Units

DTC – Denver Transit Constructors

DTO – Denver Transit Operators, LLC

DTP – Denver Transit Partners

DTS – Denver Transit Systems

DUS – Denver Union Station

DUS Infrastructure – The facilities, track and other infrastructure (and all associated Equipment) forming part of the DUS Rail Segment

DUS Rail Segment – Heavy and commuter rail segment of Denver Union Station comprising the land, spaces and surfaces on which the DUS Infrastructure is to be constructed, the DUS Infrastructure and the DUS Systems

DUS Systems – The communications systems, signaling system and traction electrification system (and all Equipment forming part thereof) to be installed as part of the DUS Rail Segment

DUT – Denver Union Station Terminal

EA – Environmental Assessment

East Corridor – The East Corridor is commuter rail line between DUS and DIA with six proposed intermediate stations in locations throughout the City and County of Denver, the City of Aurora and Adams County.

EE – Environmental Evaluation

EIA – Environmental Impact Assessment, or Energy Information Administration

EIS – Environmental Impact Statement

EMP – Environmental Mitigation Plan

EMU – Electric Multiple Units

ESA – Environmental Site Assessment

FasTracks Plan – The RTD's broader transportation plan which includes the construction of four new commuter rail lines (East Corridor, Gold Line, Northwest Rail Corridor, and North Metro Corridor), a commuter rail maintenance facility, two new light rail lines (West Corridor and I-225 Corridor), and extensions of existing light rail lines (Southeast Corridor, Southwest Corridor, and Central/Central Platte Valley). The Project forms a portion of this overall FasTracks Plan

FEIS – Final Environmental Impact Statement

FEMA – Federal Emergency Management Agency

FHWA – Federal Highway Administration

Fluor – Fluor Enterprises, Inc.

Fluor/HDR Global – Fluor/HDR Global Design Consultants, LLC, comprised of Fluor/HDR Global (Fluor Enterprises, Inc.) and HDR Engineering, Inc. under a 50/50 joint venture

FONSI – Finding of No Significant Impact

FRA – Federal Railroad Administration, a division of the USDOT

FTA – Federal Transit Administration, a division of the USDOT

Gold Line – The commuter rail line between DUS and Ward Road. The line has six proposed intermediate stations. A portion of the line will to be shared with the Section of the NWES from DUS to CRMF. The Gold Line forms part of Phase 2 of the Project, except for shared Section of the NWES from DUS to CRMF which comprises part of Phase 1 of the Project

Heavy Rail Operators – The National Railroad Passenger Corporation (Amtrak), ANSCO Investment Company (a Colorado corporation doing business as 'The Ski Train'), Burlington Northern Santa Fe Corporation (and its Affiliates) and Union Pacific Corporation (and its Affiliates)

HOT – High Occupancy Toll

HVAC – Heating Ventilation Air Conditioning

Hyundai-Rotem – Hyundai-Rotem, the Consortium's rolling stock provider

IEEE – Institute of Electrical and Electronic Engineers

IGA – Inter-Governmental Agreement

Interfleet – Interfleet Technology is a privately owned, international rail vehicle and systems engineering consulting firm

I-225 Corridor – Light Rail Corridor that is part of the FasTracks Plan

LD – Liquidated Damages

LEED – Leadership in Energy and Environmental Design

LRFD – Load and Resistance Factor Design

LRT – Light Rail Transit

LTA – Lenders' Technical Advisor

LTK – Louis T. Klauder & Associates

MBTA – Massachusetts Bay Transportation Authority

Macquarie Capital – Macquarie Capital Group Limited or its nominee

Melco – Mitsubishi Electric Company

MGT – million gross tons

MOU – Memorandum of Understanding

MOW – Maintenance of Way

MSE – Mechanically Stabilized Earth

MUTCD – Manual on Uniform Traffic Control Devices

NEPA – National Environmental Policy Act

NFPA – National Fire Protection Association

Northwest Corridor – Planned Commuter Rail Corridor of the FasTracks Project

North Corridor – Planned Commuter Rail Corridor of the FasTracks Project

Notified Body – One of the technical firms certified to perform and deliver safety cases for rolling stock to operate on the British and European railway systems.

NTP – Notice to Proceed

NTSB – National Transportation Safety Board

NVM – Non Vehicle Maintenance

NWES – The Northwest Rail Electrified Segment which is the commuter rail line comprised of the line between DUS and South Westminster Station, from which the Gold Line diverges at Pecos Junction and comprises part of Phase 2.

O&M – Operations and maintenance

O&M Expert - An independent third party operations and maintenance expert to serve as a facilitator to resolve Service Payment adjustment disputes.

OCC – operations control center

OCS – Overhead catenary systems

OE – Operator Expense

OMR – Operation, maintenance and renewal

OMR Contract - The agreement which sets out the operation, maintenance and repair rights and obligations of the OMR Contractor

OMR Contractor - A joint venture between ACI, BBRI and Fluor

OSHA – Occupational, Safety, and Health Administration

OTA – On Time Availability

P3 – Public-Private Partnership

PB – Parsons Brinckerhoff

PBS &J – Post, Buckley, Schuh & Jernigan Corporation

PENTA-P – Public-Private Partnership Pilot Program

Phase 1 – The DBFOM of a) East Corridor; b) DUS Signals; Switches and Systems and Rail Segment; c) the CRMF; d) Section of the NWES from DUS to CRMF; and e) the Rolling Stock

Phase 2 – The DBFOM of a) the Gold Line including the extension to Pecos Junction of the Section of the NWES from DUS to CRMF and the commuter rail stations along that section of the NWES

PnR – Park and Ride

PTC – Positive Train Control

Project – the EAGLE P3 Project

PUC – Colorado Public Utilities Commission

QA – Quality Assurance

QC – Quality Control

R & W – Romero and Wilson

RCAF – Rail Cost Adjustment Factor

RFP – Request for Proposal

ROD – Revenue Operation Date / Record of Decision

Rotem USA – Hyundai-Rotem, USA

ROW – Right of Way

RSA – Rolling Stock Availability

RS&I – Rules, Standards and Instruction

RTD – Regional Transportation District

RVB – Raul V Bravo and Associates

SBE – Small Business Enterprise

SCADA – Supervisory Control and Data Acquisition

SCM – Scheduled Car Miles

SDH – Station Downtime Hours

SEA – Special Events Adjustment

Section 404 – Section 404 of the Clean Water Act Regulation Fill in Jurisdictional Wetlands

SEPTA – South-eastern Pennsylvania Transportation Authority

SH – State Highway

SPV – Special Purpose Vehicle

Sponsors – Fluor and Macquarie Capital

SSH – Scheduled Station Hours

SSMP – Safety and Security Management Plan

SSP – System Security Plan

SSPP – System Safety Program Plan

STO – Service Task Order

STOP – Service Task Order Program

SYSTRA – SYSTRA USA | Global Rail & Transit Solutions®

TBD – To be determined

TES – Traction Electrification System

TEMT – Total Extended Missed Times

TMT – Total Missed Times

TOTP – Total On-Time Performance

Transfer Agreement – RTD and Union Pacific signed a Property Transfer and Relocation Agreement

TREX – Transportation Expansion Project

TPDS – Traction Power Distribution System

TPS – Traction Power Supply System

TPRS – Traction Power Return System

UDFCD – Urban Drainage and Flood Control District's Urban Drainage Criteria Manual

UPRR – Union Pacific Rail Road

USACE – United States Army Corp of Engineers

USDOT – U.S. Department of Transportation

USEPA – U.S. Environmental Protection Agency

USFWS – U.S. Fish and Wildlife Service

WBS – Work Breakdown Structure

Wetland – Wetlands can be described as the transitional zones between uplands and deep water -- they are areas that are dependent on the presence of water for all or part of the time.

ZEN – Zero Environmental violations

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APPENDIX K

ECONOMIC AND DEMOGRAPHIC OVERVIEW OF THE DENVER METROPOLITAN AREA

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AN ECONOMIC & DEMOGRAPHIC OVERVIEW OF THE DENVER METROPOLITAN AREA

INTRODUCTION

The nation's economy entered the most severe recession since the Great Depression in December 2007. While gross domestic product (GDP) growth, retail sales, and labor market indicators weakened throughout 2008, most indicators did not decline significantly until a financial crisis developed in fall 2008. By December 2008, U.S. GDP was contracting at a 6.1 percent rate and unemployment rates had already risen to 7.1 percent from 4.8 percent in the prior year.

Because a collapse in over-heated housing markets was a primary cause of the recession, consumers and business related to the household sector suffered some of the deepest and most immediate impacts. World markets are highly interconnected and housing markets had overheated in many nations, so economic malaise spread quickly. In response, governments rushed to implement broad fiscal and monetary stimulus measures. As 2009 began, U.S. government leaders had implemented a wide array of economic stimulus programs designed to stabilize the financial system and revive the economy through investments in infrastructure, foreclosure prevention and housing reform, and social programs.

The end of the recession has not been officially declared, but most economists peg the end as being sometime during the third quarter of 2009. U.S. GDP expanded by 2.2 percent in the third quarter followed by a stronger 5.6 percent increase in the fourth quarter. Because much of the economy's early recovery appears to be leaning on economic stimulus programs, many policymakers are expecting a slow rebound. The challenge for the U.S. economy is to time the withdrawal of the various stimulus programs in a manner which avoids further shocks to the system while still encouraging growth in the private sector.

While growth slowed in Colorado coincidentally with the nation, the state did not start posting over-the-year employment losses until November 2008, six months later than the nation. However, job losses quickened in Colorado and the state lost 4.5 percent of its employment base in 2009, slightly more severe than the national employment decline of 4.3 percent. Moving forward, high personal income, strong population growth, a diverse economy, and a milder-than-average housing downturn in Colorado serves as the foundation for recovery.

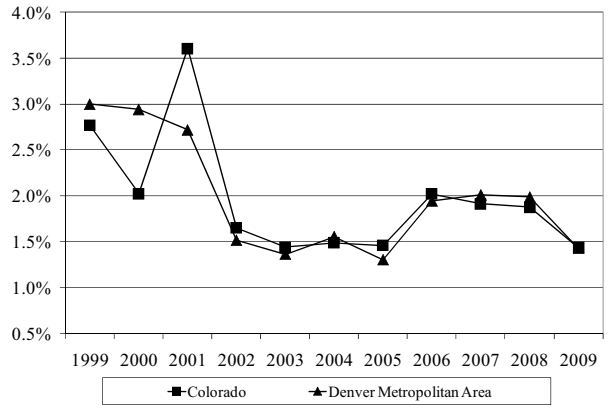
The Denver metropolitan area is comprised of seven counties – Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson – and continues to be an important driver in Colorado's economy, accounting for 56 percent of the state's population and 60 percent of its jobs. The Regional Transportation District (RTD) operates as a public transportation system whose 2,348 square mile service area includes all or parts of eight counties: the City and County of Denver, the City and County of Broomfield, the counties of Boulder and Jefferson, the western portions of Adams and Arapahoe Counties, the northeastern portion of Douglas County, and portions of Weld County annexed by Longmont and Erie. RTD serves 40 municipalities within six counties and two city/county jurisdictions. RTD operates 1,050 buses on 150 fixed routes and 125 light rail vehicles on 35 miles of track. This report describes economic activity in the Denver metropolitan region using mostly annual statistics. The most recent monthly or quarterly data are provided where annual figures are not yet available.

POPULATION

Colorado

Colorado is home to approximately 5,083,200 residents as of July 2009. As the 22nd most populous state in the nation, Colorado added nearly 71,900 residents between 2008 and 2009. The state's population increase of 1.4 percent was one-half percentage point above the nationwide population growth rate (+0.9 percent) over this same period of time. According to the U.S. Census Bureau, Colorado was the fourth fastest-growing state in 2009.

POPULATION GROWTH RATES



Source: Colorado Division of Local Government, State Demography Office.

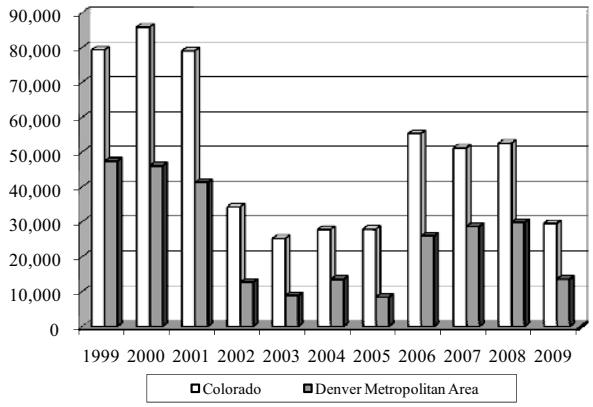
Population growth depends on two components – natural increase and net migration. The first component – natural increase – is the difference between the number of births and the number of deaths and typically follows a stable trend. The natural increase of Colorado's population averaged roughly 39,800 residents per year between 1999 and 2009, accounting for 46 percent of the state's total population growth over the ten-year period.

The second component of population change is net migration and is the number of people moving into the state minus the number leaving. This component tends to be more volatile and reflects structural factors including job growth and quality of life. Colorado net migration averaged 46,900 residents from 1999 to 2009 and accounted for 54 percent of the state's ten-year population change.

Economic factors such as employment growth, housing prices, and cost of living are some of the factors that influence migration patterns. As noted previously, net migration is strongly correlated with job growth and tends to fluctuate with the ebb and flow of business cycles. For example, net migration contributed 70 percent of Colorado's annual population gain during the rapid economic expansion of the late 1990s.

Through the state's 2002-2003 recession, net migration represented 41 percent of total population growth as economic pressures and limited job growth restricted mobility. When statewide job growth accelerated in 2006 and 2007, net migration accounted for about 58 percent of the total population gain. The most recent net migration patterns mirrored the patterns experienced during the 2002-2003 recession, with net migration again representing about 41 percent of the total population gain.

NET MIGRATION



Source: Colorado Division of Local Government, State Demography Office.

Denver Metropolitan Area

About half of Colorado's new residents settle in the Denver metropolitan area. The Denver metropolitan area net migration averaged 22,900 from 1999 to 2009 and accounted for 48 percent of the region's total population increase over the ten-year period. As previously mentioned, net migration is closely linked with job growth. As a result, recent net migration figures in the Denver metropolitan area have declined from those in the late 1990s.

Annual natural increase in the Denver metropolitan area averaged 25,100 from 1999 to 2009. Viewed another way, natural increase accounted for 52 percent of the region's total population increase over the ten-year period. Combining natural increase and

net migration, the Denver metropolitan area grew an average of 1.9 percent per year between 1999 and 2009. That rate combines a faster annual average growth rate (2.0 percent) from 1999 to 2004 and a slower annual average growth rate (1.7 percent) through the 2004 to 2009 period.

The Denver metropolitan area's population reached an estimated 2,828,600 people in 2009, rising 1.4 percent from the prior year. The Denver metropolitan area's population is slightly younger than the rest of the state, with about 14 percent of residents age 60 and older compared with nearly 15 percent in Colorado in 2009. The largest age group in the region in 2009 was the 30-44 year-old group, with over 620,200 residents. In addition, the region's population is slightly younger than the national average. According to the U.S. Census Bureau, the median age in the Denver metropolitan area is 35.8 compared with the national median of 36.8.

COUNTY POPULATION
(in thousands)

				Avg. Annual % Change	
Area	**1999**	**2004**	**2009**	**1999-04**	**2004-09**
Adams	355,308	390,587	439,836	1.9%	2.4%
Arapahoe	481,306	527,427	570,235	1.8%	1.6%
Boulder	283,924	287,311	301,804	0.2%	1.0%
Broomfield	N/A	46,664	57,411	N/A	4.2%
Denver	545,517	574,327	622,105	1.0%	1.6%
Douglas	162,323	237,317	289,444	7.9%	4.1%
Jefferson	520,810	532,071	547,728	0.4%	0.6%
Denver Metropolitan Area	**2,349,188**	**2,595,704**	**2,828,564**	**2.0%**	**1.7%**
Colorado	**4,215,984**	**4,663,404**	**5,083,249**	**2.0%**	**1.7%**

Note: The City and County of Broomfield was established in 2001.
Source: Colorado Division of Local Government, State Demography Office.

Within the Denver metropolitan area, the City and County of Broomfield, Douglas, and Adams counties reported the strongest population growth rates between 2004 and 2009. For the first time, the City and County of Broomfield was the fastest-growing county in the Denver metropolitan area, surpassing Douglas County. According to the U.S. Census Bureau, Douglas County was the fastest-growing county in the nation during the 1990s, posting double-digit population growth rates for the 1990 through 2001 time period. While the county's population is still growing, the rate has slowed as the county matures. Between 2000 and 2009, both Douglas County and the City and County of Broomfield were positioned in the top 100 U.S. counties with 10,000 or more residents in 2009 (10th and 46th, respectively).

EMPLOYMENT

The U.S. Department of Labor prepares two monthly reports on employment. The first is a survey of households known as the Current Population Survey (CPS) that is used to estimate employment characteristics by place of residence. This "household survey" is the source of estimates for labor force, employment (including self-employment), and unemployment by county. This data is discussed in the Labor Force & Unemployment section of this report.

The second report is a survey of businesses and government agencies known as the Current Employment Statistics (CES) data series. This "establishment survey" provides detailed employment, hours, and earnings data of workers by industry. Although the survey does not count the self-employed, the survey data are still some of the most widely used economic indicators. Industry employment data in the CES series are grouped according to North American Industry Classification System (NAICS) codes. This coding structure includes 11 industry "supersectors" which can be further divided into 20 broad industry groups.

Colorado

According to the CES data, Colorado nonfarm employment growth averaged 3.7 percent per year between 1989 and 1999. Annual employment growth during this ten-year period peaked at 5.1 percent in 1994, driven by employment increases in the telecommunications and information technology industries. During the state's 2002-2003 recession, employment reached its lowest levels since the

1940s, declining 1.9 percent in 2002 and 1.4 percent in 2003. With a high concentration of high-tech jobs, Colorado's economy was hit particularly hard and lost over 74,000 jobs during 2002 and 2003.

As economic conditions improved, Colorado added 53,100 jobs between 2005 and 2006, a 2.4 percent gain in employment during this period. By 2006, Colorado had recovered the majority of jobs lost during the 2002-2003 recession and the state's job growth rates were some of the fastest reported nationwide. Colorado's job growth remained comparatively strong in 2007 and the state managed a 0.8 percent job gain between 2007 and 2008.

Beginning in December 2007, one of the largest downturns in decades gripped the nation. Termed the "Great Recession," the downturn impacted nearly every industry across the state, representing the sharpest employment declines since the Great Depression. By 2009, Colorado's job loss had exceeded the national rate, declining 4.5 percent compared with 4.3 percent, respectively. Throughout the Great Recession, Colorado lost over 106,000 jobs, with losses concentrated in the construction, manufacturing, and professional and business services sectors. Throughout the ten-year period from 1999 to 2009, employment growth averaged a mere 0.5 percent per year.

Denver Metropolitan Area

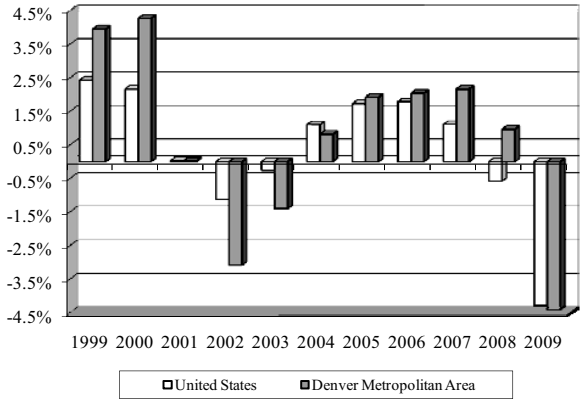
CES data are also compiled for a number of the Metropolitan Statistical Areas (MSAs) defined by the U.S. Office of Management and Budget. The Denver-Aurora-Broomfield MSA consists of ten counties: Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, and Park Counties. The following data are for the Denver-Aurora-Broomfield MSA and Boulder MSA (Boulder County) combined, or an 11-county area that best represents the seven-county Denver metropolitan area discussed throughout this report.

The 11-county Denver metropolitan area has a nonfarm employment base of nearly 1.4 million workers. The area's total nonfarm wage and salary employment growth averaged 3.5 percent between 1989 and 1999, peaking at 4.4 percent in 1997. Similar to Colorado's experience, the nationwide recession in 2001 drove sharp employment declines in the area's information industry.

The Denver metropolitan area suffered significant job losses in 2002 and 2003. The tech-led recession resulted in more severe employment declines for the Denver metropolitan area than the state, declining 3.1 percent in 2002 and falling an additional 1.4 percent in 2003. Following the statewide trend, job growth accelerated from 0.8 percent in 2004 to 1.9 percent in 2005 and job trends resumed a steady pace in 2006 and 2007. The significant job losses during the region's 2002-2003 recession resulted in the area lagging behind statewide growth trends until 2008. In 2008, the Denver metropolitan area job growth rate of one percent outpaced the statewide growth rate of 0.8 percent.

Similar to Colorado's economy, the Denver metropolitan area continued to add jobs until the most recent recession struck. Since the Great Recession impacted most industries and geographies across the state, the Denver metropolitan area followed statewide employment trends – declining 4.4 percent in 2009. Due to the severity of the 2009 employment decline, employment growth averaged just 0.3 percent per year from 1999 to 2009.

NONAGRICULTURAL WAGE AND SALARY EMPLOYMENT GROWTH RATES

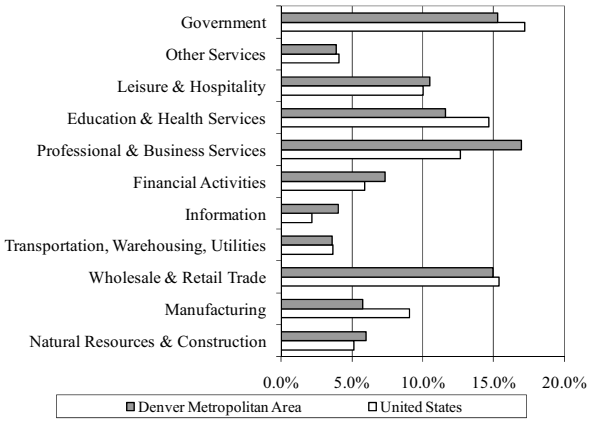


Sources: U.S. Department of Labor, Bureau of Labor Statistics; Colorado Department of Labor and Employment.

The Denver metropolitan area's job base of nearly 1.4 million workers includes large concentrations of workers in professional and business services (16.9 percent), government (15.3 percent), and wholesale and retail trade (15 percent). Employment among these three industry supersectors comprises over 47 percent of the jobs in the Denver metropolitan area. The largest of the three industries – professional and business services – includes temporary employment and facilities services, and a variety of technical firms specializing in accounting, engineering, and other professionals. Many of these workers are employed as consultants or contractors, and as a result the sector's employment tends to reflect business activity across the entire industry base.

Employment in the Denver metropolitan area is divided into 11 industry supersectors, or groups of related industries according to NAICS codes. Nine of the Denver metropolitan area's 11 supersectors reported job losses between 2008 and 2009. The largest percentage declines occurred in natural resources and construction, manufacturing, and professional and business services, largely because of the nationwide turmoil in the real estate market. Combined, these three supersectors lost roughly 40,900 jobs over the year.

2009 EMPLOYMENT BY INDUSTRY



Sources: U.S. Department of Labor, Bureau of Labor Statistics; Colorado Department of Labor and Employment.

Among the remaining supersectors, transportation, warehousing, and utilities declined 6.2 percent over-the-year, with job losses near or above five percent in wholesale and retail trade, financial activities, and information. From 2008 to 2009, the only two sectors that added jobs included education and health services (+4,300) and government (+3,100).

LABOR FORCE & UNEMPLOYMENT

The U.S. unemployment rate rose to its highest level in 2009 since the early 1980s. The U.S. jobless rate rose to 9.3 percent in 2009, nearing the peak rate of 9.7 percent reached in 1982 and surpassing 2001 peak recession levels. Prior to entering the most recent recession, unemployment rates averaged 4.6 percent in both 2006 and 2007, and rose to 5.8 percent 2008.

Colorado

Colorado's unemployment rate also peaked in 2009, reaching its highest level since the early 1980s. The state's unemployment rate fell below the U.S. average from 2006 through 2008 as job growth in the professional and business services and the education and health services sectors offset slower job gains in other industry supersectors. Colorado remained stronger than many other markets throughout the most recent recession, averaging 7.7 percent unemployment for all of 2009. Colorado's 2009 unemployment rate was almost three percentage points higher than the 4.9 percent rate in 2008 but was more than one and a half percentage points below the 2009 nationwide average.

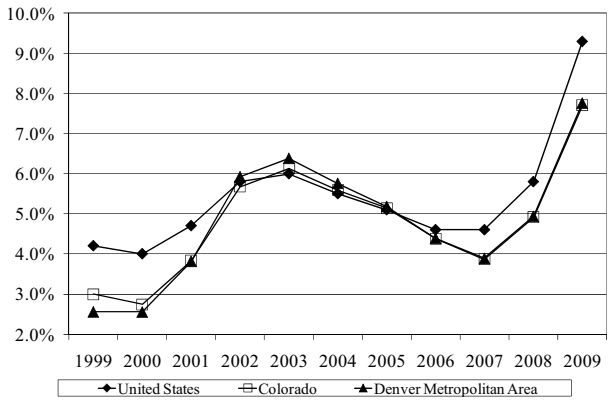
Denver Metropolitan Area

Unemployment trends in the Denver metropolitan area have closely resembled trends statewide. Between 2002 and 2005, the region's unemployment rate was somewhat higher compared with statewide and nationwide averages. The rate than matched the state level from 2006 through 2008. The Denver metropolitan area's recent high unemployment rate of 7.8 in 2009 exceeded Colorado's rate but was one

and a half percentage points below the national average even as the most recent recession weakened labor markets and forced many industries to trim their current workforce.

Colorado's workforce is one of the most highly educated across the nation. This advantage is important to maintaining Colorado's economic base, while attracting and retaining the workforce needed by businesses during challenging economic times. According to the U.S. Census Bureau's 2008 American Community Survey, Colorado has the second-highest percentage of college graduates in the nation behind Massachusetts. Educational attainment has risen in the Denver metropolitan area, where 89 percent of the total adult population graduated high school in 2008, compared with 88.8 percent in 2007. Likewise, the total adult population that have a bachelor's degree or higher has grown to 39.5 percent in 2008, compared with 38.4 percent in 2007.

UNEMPLOYMENT RATES



Sources: U.S. Department of Labor, Bureau of Labor Statistics; Colorado Department of Labor and Employment.

MAJOR EMPLOYERS

Small business plays a vital role to Colorado's economic well-being. According to the U.S. Small Business Administration, 97.8 percent of the state's employer firms in 2006 were classified as small businesses, or businesses having fewer than 500 employees. Self-employment continues to rise in Colorado, as the number of firms classified as non-employers – typically unincorporated businesses with no paid employees – increased over five percent to 426,000 in 2007.

While self-employment and small business make significant contributions in the Denver metropolitan area economy, large firms have a considerable presence. Over 120 firms with 1,000 or more employees were operating in Colorado in 2007 according to the latest *County Business Patterns* by the U.S. Census Bureau. The majority of these large businesses were located in the Denver metropolitan area.

LARGEST PRIVATE EMPLOYERS

Company	Products/Services	Employees
1. King Soopers Inc.	Grocery	11,320
2. Wal-Mart	General Merchandise	10,770
3. Safeway Inc.	Grocery	9,760
4. HealthONE Corporation	Healthcare	9,340
5. Qwest Communications	Telecommunications	7,700
6. Lockheed Martin Corporation	Aerospace & Defense Related Systems	7,700
7. Exempla Healthcare	Healthcare	7,530
8. Centura Health	Healthcare	6,010
9. Kaiser Permanente	Healthcare	5,550
10. Target Corporation	General Merchandise	5,200
11. DISH Network	Satellite TV & Equipment	4,850
12. United Airlines	Airline	4,500
13. Wells Fargo Bank	Financial Services	4,400
14. University of Denver	University	4,210
15. The Children's Hospital	Healthcare	4,100
16. Frontier Airlines	Airline	4,100
16. IBM Corporation	Computer Systems & Services	4,100
18. University of Colorado Hospital	Healthcare, Research	4,080
19. Oracle	Software & Network Computer Systems	3,800
20. United Parcel Service	Parcel Delivery	3,620

Source: Development Research Partners, April 2010.

Eight companies headquartered in Colorado were included on the 2010 *Fortune 500* list. The companies are Qwest Communications (188th), DISH Network (200th), Liberty Global (210th), Liberty Media (227th), Newmont Mining (295th), Ball (307th), CH2M Hill (381st), and Western

Union (413th). It should be noted that current plans for the announced merger between Qwest Communications and CenturyLink indicate that the combined company's headquarters will be in Monroe, Louisiana, the current home of CenturyLink, when the merger closes in the first half of 2011. The employment impacts in the Denver metropolitan area as a result of this merger are currently unknown.

Five other Colorado businesses were recognized on *Forbes'* October 2009 list of the 200 best small public companies. Dynamic Materials ranked 56th, followed by Air Methods (61st), Berry Petroleum (74th), Royal Gold (83rd), and Rocky Mountain Chocolate Factory (126th). To qualify for the list, companies must have 12-month sales between $5 million and $750 million and a stock price of at least $5 per share. Overall rankings were based on companies' return on equity plus several measures of profit and sales growth in the past 12 months and over the past five years.

Royal Gold was also named in the 2009 edition of the *Fortune Small Business "*FSB 100.*"* The list identifies the nation's 100 fastest-growing small businesses. Two other Colorado companies – Mesa Laboratories and Ramtron International Corporation – were also recognized. Fourteen more Colorado companies made the 2009 *Inc*. list of the 500 fastest-growing private companies nationwide and an additional 133 companies made the 2009 *Inc.* list of the 5,000 fastest-growing private companies. The companies included on the list represent a cross-section of industries, from clean energy to financial services, construction, and logistics.

The Denver metropolitan area is an important driver in Colorado's economy, accounting for 60 percent of its jobs. Private sector businesses account for a majority of employment in the Denver metropolitan area, but the public sector also represents a sizeable portion of the area's job base. Specifically, public sector employment in the Denver metropolitan area consists of 30,400 federal government employees, 43,500 state government employees, and 124,400 employees in local government entities.

INTERNATIONAL TRADE

Denver International Airport links the Denver metropolitan area to businesses nationwide and around the world. The airport offers nonstop service to more than 160 destinations including 18 international locations in Europe, Canada, Mexico, and Central America. The airport currently ranks as the fifth-busiest airport in North America and the 10th busiest worldwide based on total passenger counts.

The Denver metropolitan area is 346 miles west of the geographic center of the nation, serving as a natural hub for cargo operations. Additionally, the Denver metropolitan area's location on the 105th meridian – the exact midpoint between Tokyo and Frankfurt – means that local companies can contact businesses in both countries in the same business day. The Denver metropolitan area is located midway between Canada and Mexico, which are partners under the North American Free Trade Agreement (NAFTA). Exports to Canada and Mexico – the state's leading trade partners – accounted for 39 percent of Colorado's total exports in 2009. While Canada and Mexico are key trading partners for Colorado, several other countries including China, Japan, Germany, Malaysia, and the Netherlands receive considerable shares of the state's exports.

Following the 2001 recession, a weaker dollar helped stimulate Colorado's exports. Between 2002 and 2003, the value of Colorado's exports increased 10.2 percent. After increasing 17.4 percent in 2006, the value of Colorado's exports began to decline as global uncertainty increased and the next recession fast approached. By 2009, worldwide recession and financial crises had curtailed export growth. The value of Colorado's exports declined 25.1 percent between 2008 and 2009, primarily driven by the sharp decline in the state's largest export, computers and electronics. Like the nation, Colorado has also experienced a shrinking manufacturing base and slower economic growth has contributed to faster-than-average declines in the state's export portfolio.

The following five industries account for nearly 70 percent of Colorado's total exports:

- Computers and electronic products (27 percent of total export value; down 41 percent between 2008 and 2009).
- Chemicals (13 percent of total export value; down 0.6 percent in 2009).
- Processed foods (13 percent of total export value; down 23 percent in 2009).
- Machinery (10 percent of total export value; down 23 percent in 2009).
- Transportation equipment (6 percent of total export value; down 4 percent in 2009).

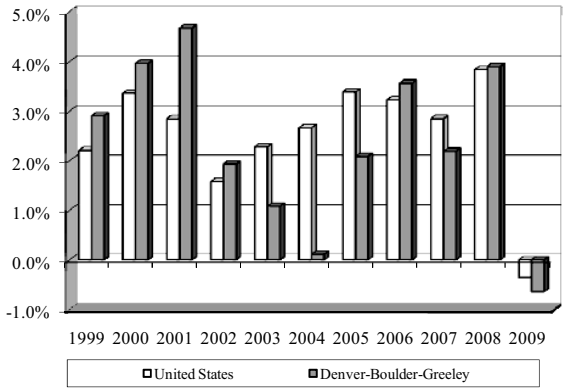
It is important to note that the composition of Colorado's export portfolio has shifted over time. The largest component of the state's export portfolio – computers and electronic products – has declined an average of 9.6 percent each year from 2000 to 2009 as a share of total Colorado exports. Exports such as fossil fuels and other mined materials have steadily increased as a share of the state's total exports since 2000; however, the increase in these sectors has not been enough to offset the value lost in the computers and electronic products sector.

INFLATION

From 1992 to 2002, inflation in the Denver metropolitan area – as measured by the Denver-Boulder-Greeley Consumer Price Index (CPI) – outpaced inflation at the national level. Inflation in the Denver metropolitan area peaked at 4.7 percent in 2001, driven by stronger than average job and wage growth. Since 2003, the inflation rate in the Denver metropolitan area has been generally lower than or similar to the national level. In 2008, inflation in the Denver metropolitan area reached its highest peak since 2001, rising to 3.9 percent compared with the U.S. average of 3.8 percent. This spike was largely due to a significant increase in energy prices in 2009.

A deep recession and the collapse of prices for oil, food, and other commodities heavily influenced the inflation rate in 2009. In 2009, the Denver-Boulder-Greeley CPI showed a historic downtrend, declining 0.6 percent between 2008 and 2009 in the first decline reported since data collection for this region began in 1965. At the national level, prices declined an average of 0.4 percent in 2009.

INFLATION RATES



Source: U.S. Department of Labor, Bureau of Labor Statistics.

INCOME

Colorado

Growth in Colorado personal income averaged 4.3 percent per year between 2004 and 2009, about one-half percentage point higher than the national average over this same period of time. Colorado income growth exceeded the national average between 2005 and 2008, reaching a peak growth rate of 8.2 percent in 2006. The personal income growth rate in Colorado had slowed to 3.3 percent in 2008 as a result of diminished wage growth in a number of nonfarm industries such as manufacturing and construction and rising commodity costs that had eroded farm-related income. In 2009, an increasingly unstable national economy and distinct economic challenges posed by the most recent recession led to a 2.2 percent decline in personal income, a decline greater than the nation's 1.7 percent drop.

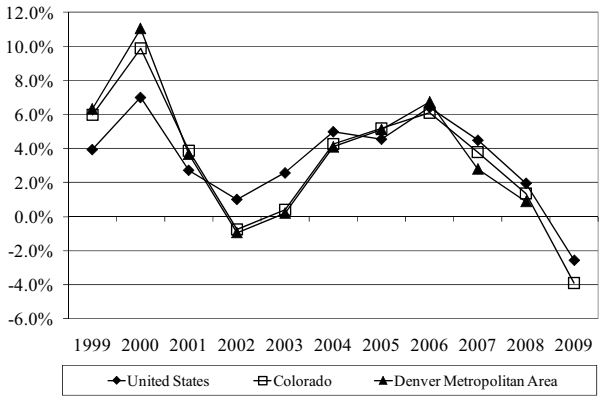
Over the past several years, Colorado's strong population growth has influenced the state's total personal income and per capita personal income

trends. Driven by weaker economic conditions, per capita personal income growth slowed to 1.3 percent in 2008, falling below the national rate of 2.0 percent. While almost all states experienced a decline in per capita personal income growth in 2009, Colorado ranked 15th highest in the nation with a per capita personal income of $41,344. Additionally, Colorado's per capita personal income represented 106 percent of the U.S. average in 2009.

Denver Metropolitan Area

Data on the Denver metropolitan area's personal income and per capita personal income are only available through 2008. Beginning in 2007, income data began to show the early signs of slowing wage growth and weak real estate markets. In 2008, annual growth in the Denver metropolitan area's per capita personal income ($48,357) reached 0.9 percent, down nearly two percentage points from 2007. That year's growth rate fell below the national and statewide income growth rates of two percent and 1.3 percent, respectively. Additionally, per capita personal income in the Denver metropolitan area was 120 percent of the national average.

PER CAPITA PERSONAL INCOME GROWTH RATES



Source: U.S. Department of Commerce, Bureau of Economic Analysis.

RETAIL TRADE

Personal consumption expenditures account for about 70 percent of the total value of all goods and services produced in the U.S. Commonly referred to as consumer spending, these expenditures are a key component of retail activity. Nearly every past recession has been accompanied by a decline in consumer spending. In contrast, consumer spending helped cushion the economic conditions during the 2001 recession, bolstered by spending in non-automotive housing durables and strong investment in the housing sector.

Data from the U.S. Census Bureau suggest that nationwide spending began to soften as early as 2006, as rising fuel and grocery costs contributed to a slowdown in retail sales. U.S. retail sales increased 2.2 percent in 2006 and slowed to 0.4 percent in 2007 after adjustment for inflation. Retail sales fell to their lowest levels in decades by the end of 2008 due to declining consumer purchases, particularly for durable goods such as automobiles, electronics, home furnishings, and furniture. In 2008, inflation-adjusted U.S. consumer spending fell 4.8 percent.

In 2009, difficult retail conditions persisted and remained sluggish throughout the year. The weakness in consumer demand for clothing, automobiles, and appliances in 2009 resulted in a 5.9 percent decline in retail sales after adjustment for inflation, down about one percentage point from the prior year.

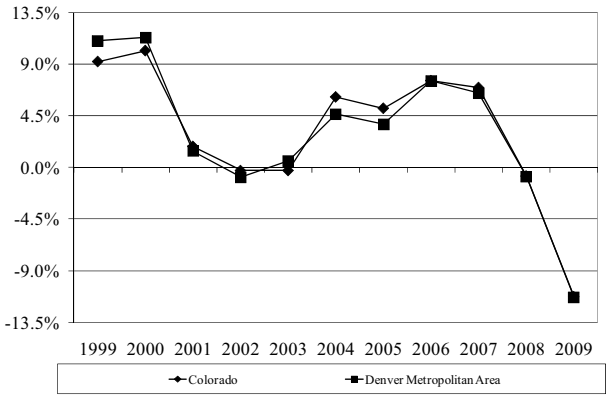
Colorado

Similar to the nation, Colorado consumers face the same pressures on household finances such as limited access to consumer credit, rising debt levels, declining home equity, and sluggish wage growth. Colorado's retail trade sales began to slow in 2007 and turned negative in 2008, posting a 0.8 percent nominal (not inflation-adjusted) decline in sales. The pullback in consumer spending continued in 2009 with sharper declines in retail trade sales activity. In 2009, declining consumer purchases produced an 11.3 percent decline in Colorado retail trade sales.

Denver Metropolitan Area

Retail trade sales in the Denver metropolitan area have closely resembled statewide trends over the last few years. A consumer-driven recession has had significant impacts on the Denver metropolitan area as well. Mirroring statewide trends, Denver metropolitan area retail trade sales fell 11.3 percent in 2009.

RETAIL TRADE SALES GROWTH



Source: Colorado Department of Revenue.

Retail trade sales include business and consumer purchases from retailers and from food and drink establishments. The largest category of retail trade sales in the Denver metropolitan area is food and beverage stores. Sellers of motor vehicle and auto parts, general merchandisers/warehouse, and restaurants and drinking establishments were the next largest contributors to the region's total retail trade sales.

Retail trade sales declined 11.3 percent in 2009, reflecting sluggish consumer activity and a deteriorating job market. Sales in each of the categories across the region fell in 2009 with declines ranging from -2.2 percent in general merchandisers/warehouse and food and drinking establishments to -32 percent for service stations. Consistent with national trends, the region's declining gasoline prices led to the 32 percent decline in gas station sales in 2009. In addition, a slower housing market led to sales declines for retailers of building materials and nursery supplies (18.2 percent) and furniture and furnishings retailers (19.3 percent).

DENVER METROPOLITAN AREA
RETAIL TRADE SALES BY CATEGORY
(in $millions)

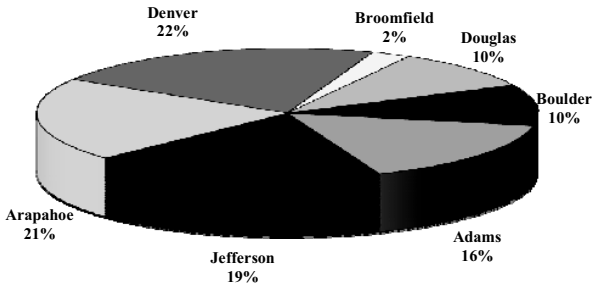
Industry	2008	2009	Change**
Retail Trade:			
Motor Vehicle and Auto Parts	$7,250	$6,203	-14.4%
Furniture and Furnishings	$1,516	$1,224	-19.3%
Electronics and Appliances	$1,295	$1,166	-9.9%
Building Materials / Nurseries	$2,931	$2,397	-18.2%
Food/Beverage Stores	$7,482	$7,274	-2.8%
Health and Personal Care	$1,320	$1,261*	-------
Service Stations	$2,844	$1,934	-32.0%
Clothing and Accessories	$2,089	$1,949	-6.7%
Sporting/Hobby/Books/ Music	$1,457	$1,329	-8.8%
General Merchandise/ Warehouse	$5,991	$5,860	-2.2%
Misc. Store Retailers	$1,453	$1,369	-5.8%
Non-Store Retailers	$3,348	$1,079*	-------
Total Retail Trade	$38,976	$34,135	-12.4%
Food / Drinking Services	$4,853	$4,745	-2.2%
TOTAL	$43,829	$38,880	-11.3%

**Retail trade sales by industry do not add to total retail trade sales due to data suppression.*
***Data not inflation-adjusted.*

Source: Colorado Department of Revenue.

Retail trade sales in the City and County of Denver comprised the largest share (22 percent) of total Denver metropolitan area sales in 2009, followed by Arapahoe County (21 percent) and Jefferson County (19 percent). Between 2008 and 2009, all counties across the Denver metropolitan area experienced significant slowdowns in retail trade sales.

DISTRIBUTION OF 2009 RETAIL TRADE SALES BY COUNTY



Source: Colorado Department of Revenue.

RESIDENTIAL REAL ESTATE

The housing market was a key driver of the U.S. economy in recent years. U.S. homeownership rates reached a peak of almost 70 percent in 2004 and 2005. In 2006, the U.S. homeownership rate began a decline that has largely stabilized at 67.4 percent in 2009. Since the most recent recession was primarily led by the collapse of the residential housing markets, homeownership rates across the nation have declined over the past five years. Like the nation, Colorado's homeownership rate followed a similar trend – peaking in 2003 at 71.3 percent and falling to 68.4 percent in 2009 as tightening credit from the subprime crisis and resulting foreclosure fallout discouraged potential homebuyers. Despite the fallout in the housing market, Colorado's homeownership rates have remained above the national average rate since 1999.

Residential Home Prices

Even though Colorado's housing market suffered a significant downturn, the state fared better than other markets across the nation and avoided the rampant price fluctuations recently experienced in other areas. Housing markets such as Phoenix, Las Vegas, and Miami experienced speculative buying during the 2004 and 2005 period which resulted in rapid annual price increases of 30 to 50 percent. This was followed by steep declines of similar amounts in 2008 and 2009 as the housing correction intensified. In contrast, the Denver metropolitan area experienced much less volatility in home prices, with annual shifts ranging from +3.3 percent in 2005 to -10.6 percent in 2008.

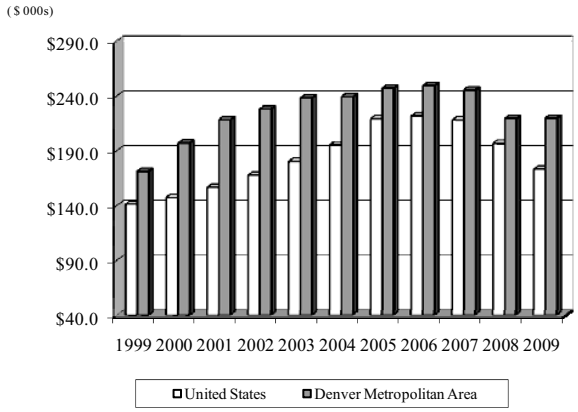
Median home prices reflect the point where half of the existing homes sold for more and half sold for less. Data released by the National Association of Realtors reports that the Denver metropolitan area's median home prices followed the nation, declining in 2007 and 2008. In 2009, Denver's median home price was $219,900, up 0.3 percent from the 2008 median. During 2009, the U.S. median home price was $172,100, declining 12.5 percent. According to a recent study by *Business First Buffalo,* the Denver metropolitan area ranked 31st out of the 52 major markets across the U.S. in housing affordability. The study compared each area's median household income to its median home price as reported in the Census Bureau's 2006-2008 American Community Survey.

The depreciation in home prices during the recession has created a buyers' market. Thus, the combination of low interest rates and large inventories has led to increased affordability of housing in the Denver metropolitan area. Furthermore, the first-time homebuyers tax credit continued through April 30, 2010. The credit was also expanded to current homeowners who have occupied their residence for five of the past eight years.

A number of other indices show similar trends in the Denver metropolitan area's housing market. Data from Metrolist show the Denver metropolitan area's average sales price for existing single-family homes rose over-the-year in each of the last four months of 2009. The S&P/Case-Shiller Home Price Index – another indicator of home prices – suggested Denver was one of the metropolitan areas closest to a positive annual return as 2009 ended. Data from the Federal Housing Finance Agency's Home Price Index suggests that fourth quarter 2009 home prices in the Denver metropolitan area had increased 5.5

percent over-the-year. Additionally, a separate National Association of Realtors data set shows the Denver-Aurora-Broomfield MSA was one of 30 metropolitan areas to report an increase in median home price between the third quarters of 2008 and 2009. The increase was the first reported for the Denver metropolitan area in two years.

MEDIAN HOME PRICES



Source: National Association of REALTORS.

Foreclosures

While median home price data suggest that the Denver metropolitan area's housing market may have stabilized, foreclosures were still elevated in 2009. The region's public trustees reported a total of 26,510 filings for the year, or a 6.9 percent increase from 2008 filings. Across the region, the City and County of Denver was the only county to experience a slight decline in 2009 filings. Boulder County had the highest increase in foreclosures with the number of filings up 38.4 percent over the year. Additionally, filings in the City and County of Broomfield rose 24.9 percent, followed by a 22.9 percent increase in Douglas County filings.

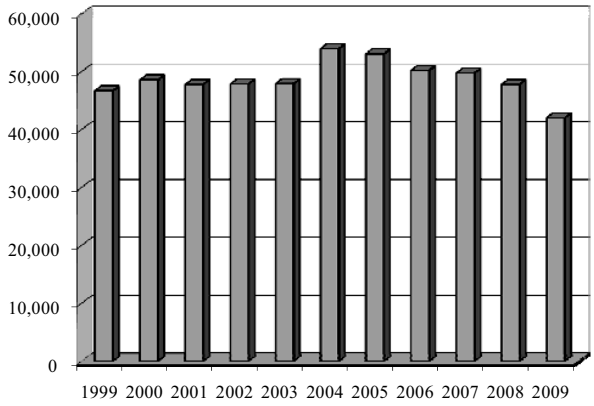
Even as foreclosure mitigation efforts became more successful, limited credit availability and a weak labor market kept pressure on homeowners through 2009. In February 2009, the Obama Administration introduced a comprehensive Financial Stability Plan to address the weak housing sector. A critical component of that plan is the Making Home Affordable program to help stabilize the housing market and provide relief to homeowners and avoid foreclosures. As part of this package, programs such as the Home Affordable Modification Program (HAMP), the Second Lien Modification Program (2 MP), and the Home Affordable Refinance Program offer homeowners opportunities to modify their mortgages and make them more affordable. The Home Affordable Foreclosure Alternatives Program allows homeowners who can no longer afford to stay in their home and want to avoid foreclosure to complete a short sale or deed-in-lieu of foreclosure. While many of these foreclosure programs should have better outcomes as they mature in the next year, mechanisms are in place to prevent the surge of foreclosures that have occurred in the last few years.

Residential Home Sales

While there are some signs that home sales are increasing both nationally and in the Denver metropolitan area, it remains unclear as to how much of the progress is a result of federal government efforts to address the weak housing sector. Still, as the economy continues to improve, low interest rates and pent up housing demand will eventually have impacts on the market. The Denver metropolitan area's existing home sales peaked in 2004 at 54,012. The following years were plagued by increased foreclosures resulting from the prevalence of subprime and adjustable-rate mortgages, declining home values, and rising inventories. As the housing market weakened further with the onset of the recession, existing home sales dropped.

In 2009, total existing home sales in the Denver metropolitan area numbered 42,070, a 12.1 percent decline from 2008 and a 22.1 percent decline from the 2004 peak. Similarly, total sales volume peaked in 2005, reaching nearly $15 billion. In the years that followed, lower-priced homes and a softening housing market contributed to declining sales volume. In 2009, total sales volume was roughly $10 billion, falling 14.7 percent from more than $11 billion in 2008.

**DENVER METROPOLITAN AREA
HOME SALES**



Source: Metrolist Inc.

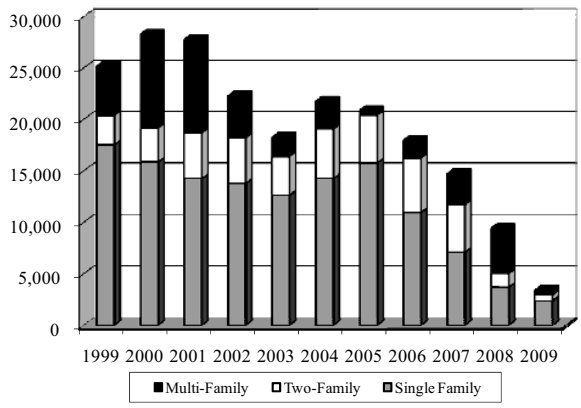
Residential Building Permits

Following the trend in declining home sales, residential construction in the Denver metropolitan area also started to decline in 2005. In 2009, the region's counties and municipalities issued just over 3,400 residential building permits, a 63.9 percent decline from 2008 and an 84.4 percent decline in residential permits issued from the 2004 peak. In 2009, all communities in the Denver metropolitan area suffered reduced construction activity, with the largest declines in the City and County of Broomfield (-80.5 percent), the City and County of Denver (-80.1 percent), and Boulder County (-65.3 percent).

The total number of residential building permits includes permits for single-family detached homes, single-family attached homes – or condominiums, townhomes, and duplexes – and multi-family. There were 2,378 single-family detached permits issued in 2009, representing the largest component (70 percent) of residential building permits in the Denver metropolitan area. Between 2005 and 2007, the region-wide decline in permits for single-family detached homes far exceeded the decline in permits for attached homes. The opposite was true in 2008 and 2009 as the construction downturn contributed to faster-than-average declines in single-family attached homes. In 2009, just over 590 single-family attached home permits were issued, putting that year's construction activity nearly 80 percent below the ten-year average. In 2009, permits for single-family attached homes fell 55.5 percent, while permits for detached homes declined 35.5 percent. All Denver metropolitan area counties saw a decline in both single-family attached and single-family detached building permits in 2009.

The multi-family (apartment) market contributed to the large decline in residential permit activity, plummeting 90.1 percent in 2009. In 2009, all Denver metropolitan area counties saw reduced multi-family construction activity. From 2006 to 2008, the multi-family market was outperforming other property types, with permit activity increasing an average of 60 percent per year. During this time, strong prospects in the Denver metropolitan area and a stable local apartment market contributed to rising multi-family building permits, more than tripling in 2006 and rising another 75 percent in 2007. In 2008, multi-family permits rose 46.4 percent, adding nearly 1,400 total permits to the region. That year, the largest increase in multi-family permits originated from the City and County of Denver, the City and County of Broomfield, and Douglas County.

NEW HOME CONSTRUCTION



Source: Home Builders Association of Metro Denver.

Historically, apartment demand is closely tied to job growth and labor market trends. According to the

Denver Metro Apartment Vacancy and Rent Survey, the region's 12-month average vacancy rate was 8.1 percent in 2009, a 1.5 percent increase from 2008. The apartment vacancy rate peaked at nine percent during the second quarter but declined to 7.7 percent by the end of 2009. At this same time, the unemployment rate for the Denver metropolitan area followed the same trend, rising to 8.2 percent during second quarter 2009 and declining to 7.1 percent by fourth quarter 2009. The combination of the weak labor market and renters' desire to cut costs contributed to a declining average apartment rental rate in 2009. The Denver metropolitan area average apartment rental rate ended 2009 at $875 per month, a 1.5 percent decline from the prior year. Across the region, average monthly rents ranged from $809 in Adams County to $1,027 in Douglas County.

COMMERCIAL REAL ESTATE

The Denver metropolitan area's reputation for relatively inexpensive commercial real estate attracted large numbers of investors and developers following the 2001 recession. Declining vacancy and rapidly rising lease rates were the hallmarks of 2006, when investors spent a record $5 billion on the region's commercial real estate.

Development, sales, and leasing activity moderated in 2007, but the region's commercial markets did not show sustained signs of weakness until 2008. By 2009, weakness was substantially more evident in rising vacancy and falling lease rates. In addition, job losses across most sectors led to a lower demand for space, forcing commercial development in the Denver metropolitan area to nearly halt. The combination of restricted lending and financial market uncertainty has led to significant downturns in the commercial real estate market.

The Denver metropolitan area is poised to make a strong revival when credit conditions and business demand improve. The region's relatively healthy balance of market supply and demand is set to propel the market ahead of other markets nationwide. In addition, the region ranks favorably because of its well-educated workforce, high quality of life, and comparatively low costs of doing business. Furthermore, the faltering market has allowed for lower rental rates that will help enable new businesses to set-up operations, while retaining existing businesses in commercial space.

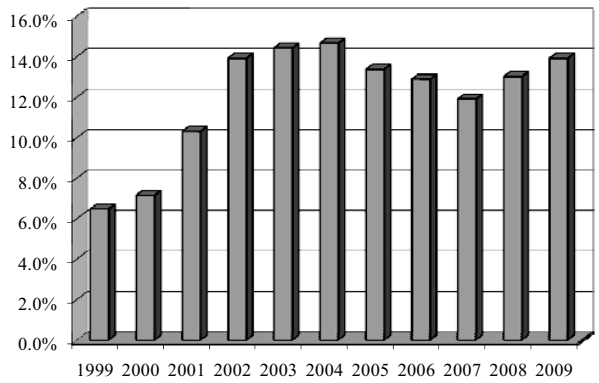
Office Activity

The widespread economic contraction and troubled housing sector weakened the Denver metropolitan area's office fundamentals in 2009. Office market demand is strongly linked to employment capacity. As a result, as a number of sectors trimmed payrolls in 2009, this led to rising vacancy and falling lease rates. Data from CoStar Realty Information, Inc. shows the Denver metropolitan area's office market struggled in 2009. Thanks to weak demand for space and limited commercial credit, the region's direct vacancy rate ended the year at 13.9 percent, or nearly one percentage point higher than the 13 percent rate from the prior year. Direct office market lease rates fell from $21.24 per square foot in first quarter 2009 to $20.08 per square foot in fourth quarter 2009, which was the lowest lease rate reported since first quarter 2007.

In addition, the total square footage of office property newly constructed in the Denver metropolitan area in 2009 fell nearly 30 percent from the total finished in 2008. More than 1.5 million square feet of space in 22 buildings was completed throughout the year, with major projects including 1800 Larimer and the new FBI headquarters in Stapleton. Representing the largest office transaction to close in the Denver metropolitan area in the fourth quarter of 2009, online investment company Scottrade will expand its operations with a new facility in Westminster.

The pipeline for office market development has largely emptied. As of the end of 2009, there was 1.2 million square feet of office space under construction compared to two million square feet under construction at the end of 2008 and 3.4 million square feet under construction at the end of 2007.

OFFICE DIRECT VACANCY RATE



Source: CoStar Realty Information, Inc.

Industrial and Flex Activity

The Denver metropolitan area's industrial market began to soften at the end of 2008 and was relatively subdued in 2009. According to CoStar Realty Information, Inc., the direct vacancy rate in the fourth quarter of 2009 was 6.8 percent, relatively unchanged from the year-ago rate. However, slower leasing activity has resulted in a 7.7 percent decline in direct average lease rates since the second quarter of 2008, falling from $5.20 per square foot to $4.83 per square foot in fourth quarter 2009. The Denver metropolitan area's flex market continued to weaken in 2009 as the Denver metropolitan area's direct flex vacancy rate rose to 14.7 percent in the fourth quarter of 2009, an increase of over one percentage point from the fourth quarter of 2008. Surprisingly, direct lease rates have remained relatively stable, ending 2009 at $9.54 per square feet, up from $9.43 per square feet in third quarter 2009.

There was limited industrial development activity in 2009, with only about 230,000 square feet completed in six buildings, down from the 2.5 million square feet completed in 41 buildings at the end of 2008. The largest projects completed in 2009 were located in the City and County of Denver and included a 100,000-square-foot industrial building in the Denver Business Center and over 56,000 square feet of industrial space at the Stapleton Business Center. The remaining projects were dispersed throughout Adams and Arapahoe Counties.

While Denver metropolitan area industrial and flex construction remains stagnant, a few projects have proceeded as planned. Denmark-based Vestas Wind Systems A/S will construct three new manufacturing facilities in Brighton and Pueblo. Two plants in Brighton will assemble blades and nacelles, while the Pueblo facility will manufacture wind turbine towers. ConocoPhillips is also moving ahead with plans to redevelop the former 432-acre StorageTek campus in Louisville into a renewable energy center. The company plans to develop the energy research campus in three phases. The first phase will include a research center, a corporate learning center, office space, retail facilities, and a hotel for campus guests.

Hospital and medical construction – classified as neither office nor industrial – has seen slightly weaker development activity in 2009. Despite difficult financing conditions for commercial real estate, a number of projects at the former Fitzsimons Army Medical Center are underway. The U.S. Department of Veterans Affairs Hospital recently broke ground at Fitzsimons in Aurora. The $1.1 billion stand-alone facility will be part of the Colorado Science + Technology Park in the Fitzsimons Life Science District and is scheduled to open in 2013. Similarly, builders recently began work on a new facility for University Physicians Inc. at the Colorado Science + Technology Park at Fitzsimons in Aurora. The $35 million, six-story building will include a parking structure and is located near a future light rail stop.

Work continues at the Parker Adventist Hospital which includes a $76 million two-phase expansion and renovation. The project also includes a four-story, 80,000-square-foot medical office building on the hospital grounds with completion slated for 2011. Medical facility projects are also underway in Jefferson County, where the new $498 million St. Anthony Central Hospital is scheduled to open in early 2010. In nearby Wheat Ridge, the Exempla Lutheran Medical Center is undergoing a $225 million renovation and expansion scheduled to open

in the summer of 2010. Further south, plans continue to evolve for new Centura Health facilities in Castle Rock with the first phase of the $120 million medical development to include a medical office building and an emergency care facility.

Redevelopment Activity

The former Fitzsimons Army Medical Center is the site of some of the most concentrated redevelopment activity in the Denver metropolitan area. The 578-acre site in Aurora is the home of the Anschutz Medical Campus and the Fitzsimons Life Science District. Included at the site is the 184-acre Colorado Science + Technology Park at Fitzsimons, which houses a business incubator with 14 pre-built labs, 21 executive office suites, and many shared services and amenities. In addition, the $1.5 billion Anschutz Medical Campus includes the University of Colorado Hospital and facilities for University Physicians, Inc. The campus is also home to the future Denver Veterans Affairs Medical Center and is adjacent to The Children's Hospital. Upon completion, the entire district and medical campus will account for approximately 18 million square feet of development. Now that the former University of Colorado Denver campus at Colorado Boulevard and East Ninth Avenue is essentially vacant, plans are underway for a mixed-use redevelopment including a hotel, retail and grocery store space, and residential space.

As part of Denver International Airport's planned expansion over the next five to 15 years, the airport is moving forward with plans to build the 500-room off-concourse Westin hotel. Slated for completion in late 2013, the hotel will be located at the south end of the airport's terminal and will offer a significant amount of meeting space.

Several other redevelopment projects across the Denver metropolitan area are following a mixed-use model. A 35-year-old hotel at East Hampden Avenue and I-25 will be converted to a mixed-use development for seniors. Further east, the Gardens on Havana – the $110 million mixed-use redevelopment of Aurora's Buckingham Square Mall – is one of few retail projects currently under construction. The completed center will offer close to one million square feet of retail space. Further north, building has begun on the 780-acre mixed-use Adams Crossing development in Brighton. The development will house Adams County government operations in two buildings and will also include retail space, single-family homes, a hotel, and open space. Developers are also working to convert the former Southglenn Mall in Centennial to a mixed-use town center with apartments and retail space. Many retailers have already opened at the new Streets at SouthGlenn development and more grand openings are scheduled.

Other mixed-use projects in the Denver metropolitan area are considered transit-oriented developments. The bulk of these projects are centered on FasTracks, the $6.5 billion transit expansion project approved by voters in 2004. According to the Denver Regional Council of Governments, 67 projects located within one-half mile of a transit station are in planning phases or are already under construction. The largest of those projects are related to the Fitzsimons Life Science District and Union Station redevelopment. In total, projects to be completed over the next five years will add about 780 acres of transit-oriented development throughout the Denver metropolitan area.

Retail Activity

The Denver metropolitan area's retail market accounted for the majority of commercial construction that occurred in 2009, however the retail market's overall construction volume was down from previous years. Throughout the year, low consumer confidence contributed to tepid consumer spending and consumer frugality. Sharp declines in consumer foot traffic and spending forced a number of retailers to close, and those that survived the recession have likely delayed plans for near-term expansions. Despite the retail market slowdown, the Denver metropolitan area's retail market remains competitive. The Denver metropolitan area retail market ranked 12th among 43 U.S. markets in Marcus and Millichap's 2009 National Retail Index.

The index is based on criteria including job growth, vacancy rates, rent growth, retail sales, and other factors. The region's retail market moved up five places from a 17th-place ranking in 2008.

The region showed signs of possible stabilization by the fourth quarter of 2009. According to CoStar Realty Information, Inc., the Denver metropolitan area's direct retail market vacancy rate fell from nine percent in the third quarter of 2009 to 8.7 percent in the fourth quarter, ending the year nearly one-half of a percentage point higher than the year-ago level. The Denver metropolitan area's higher vacancy has placed pressure on the region's lease rates, which declined in 2009. The region's direct average lease rate for the retail market declined 6.2 percent over-the-year to $16.30 per square foot in the fourth quarter of 2009.

Despite rising vacancy rates and softening lease rates throughout 2009, moderate construction activity occurred in the Denver metropolitan area. About 2.1 million square feet of retail space in 80 buildings was completed by the end of 2009 including major projects such as the Streets at SouthGlenn, River Point at Sheridan, and the Shops at Quail Creek. Specifically, the Streets at SouthGlenn development accounted for 27 percent of all Denver metropolitan area retail property completed in 2009, and the largest single project was a 171,800-square-foot Super Target in Douglas County.

These facilities contribute to a larger community of retail establishments across the Denver metropolitan area. The region offers 21 retail and lifestyle centers of 500,000 square feet or more and numerous smaller shopping districts. These retail centers are geographically dispersed throughout the region, ranging from the Park Meadows Retail Resort in Douglas County and FlatIron Crossing in Broomfield to the Colorado Mills "shoppertainment" regional mall in Lakewood and Twenty Ninth Street in Boulder. These suburban malls complement the 1.1 million-square-foot Cherry Creek Shopping Center located within the City and County of Denver. Several of the region's retail centers – including Park Meadows and the Denver Pavilions shopping center in downtown Denver – have undergone or will soon begin expansions and renovations.

TRANSPORTATION

The Denver metropolitan area's geographic position and diverse economy have combined to make it one of the nation's important transportation hubs. Offering access to transportation and distribution routes by road, air, and rail, the region competes favorably in the global marketplace.

Highways

The Denver metropolitan area is at the crossroads of three major Interstate highways. Motorists can access I-25 for north-south travel and both I-70 and I-76 for east-west routes. More than three-quarters of the Denver metropolitan area beltway – E-470, C-470, and the Northwest Parkway – has been completed to date. In 2008, Jefferson County, the City and County of Broomfield, and the City of Arvada formed the Jefferson Parkway Public Highway Authority to complete the remaining portion of the beltway.

The Denver metropolitan area's transportation network is continually growing and changing to accommodate passenger and freight traffic. In 2009, Colorado legislators approved a broad-based transportation improvement package called FASTER. The $250 million program will accelerate funding for repairs and maintenance on Colorado roads and bridges. The program also encourages state, local, and private collaboration for financing strategies, partnerships, concession agreements, and contracting for road projects.

The Denver metropolitan area's planning and development process for major highway projects is instrumental in providing a fully-integrated, transportation system for the region. The Transportation Expansion Project, or T-REX, was Colorado's largest public works project since the construction of Denver International Airport. The

$1.7 billion venture included the widening of Interstates 25 and 225, the construction of a 19-mile light rail line in the southeast metro area, 13 new light rail stations, and reconstruction of bridges and outdated interchanges along the corridor. The project ended in 2006 – 22 months ahead of schedule and about three percent under budget – and has received the National Achievement Award from the National Partnership for Highway Quality as well as high ratings from commuters.

Roadways and pedestrian facilities throughout the Denver metropolitan area have improved with funding thus far from the American Recovery and Reinvestment Act (ARRA). Numerous resurfacing projects, bridge rehabilitation, and safety improvements have occurred and are in the planning stages with more than $100 million in ARRA funds to be distributed by the Colorado Department of Transportation. As of year-end 2009, 65 Colorado Department of Transportation projects were under construction and 17 projects had been completed with ARRA funds. The Denver Regional Council of Governments (DRCOG) received roughly $56 million of the Colorado Department of Transportation's ARRA funds. The DRCOG allocation resurfaced, replaced, and upgraded streets, highways, and pedestrian facilities throughout the Denver metropolitan area.

Mass Transit

The Regional Transportation District (RTD) serves the mass transit needs of the Denver metropolitan area. RTD operates 1,050 buses on 150 fixed routes and 125 light rail vehicles on 35 miles of track. The District operates 74 free parking lots (Park-N-Rides) for commuters using any of its 37 light rail stations and 10,199 bus stops. RTD also operates 36 hybrid-electric buses along the 16th Street Mall in downtown Denver and transports visitors from one end of the mile-long pedestrian mall to the other free of charge. System-wide ridership for 2009 exceeded 98 million boardings.

As it continues to provide mass transit services throughout the Denver metropolitan area, the RTD network is also in transition. In November 2004, Colorado voters approved FasTracks, a $6.5 billion plan for the design and construction of the Denver metropolitan area's multi-modal transit network. Prior to FasTracks, light rail in the Denver metropolitan area consisted of the Central, Central Platte Valley, and Southwest Corridors. Parts of the new Southeast Corridor were added under T-REX in 2006, and light rail service now extends 19 miles south from downtown Denver along I-25 to Lincoln Avenue in Douglas County.

At completion, FasTracks will add transit connectivity in 10 corridors throughout the region. The project will add 122 miles of new light rail and commuter rail, 18 miles of bus rapid transit service, more than 21,000 parking spaces at transit facilities, and additional suburban bus service. In addition to the 37 transit stations that are currently operational or under construction, FasTracks will also add 57 new stations throughout the Denver metropolitan area.

Despite the weak economic conditions in 2009, FasTracks moved ahead with planned construction on a number of corridor and redevelopment projects. The West Corridor – a 12.1-mile line between Denver's Union Station and the Jefferson County Government Center in Golden – is the first FasTracks corridor to begin construction with completion slated in 2013. The project is also moving forward with two commuter rail lines – the East Corridor and the Gold Line – that will connect Denver's Union Station with Denver International Airport and cities northwest of downtown. The construction work on the East Corridor could begin in late 2010. In addition, the Denver Union Station redevelopment project is underway that will transform the historic site into a 19.5-acre multi-modal transportation hub joining light rail lines with bus rapid transit, commuter rail, and office, retail, and residential space.

Air

Located approximately 24 miles northeast of downtown Denver, Denver International Airport is a

53-square-mile facility with six runways, three concourses, and 95 gates plus 62 regional aircraft positions. Denver International Airport is the only major U.S. airport built within the last 25 years and was the nation's first airport to receive ISO 14001 certification for its environmental management system. The airport's environmental management program includes protocol for storm and wastewater management, environmental planning, and compliance. In addition, Denver International Airport sustainability also includes two solar panel arrays, one of which completely powers the airport's fuel storage and distribution facility. Plans are also underway for Green Park DIA, a 4,200-space parking facility that will rely on wind and solar power.

Denver International Airport averaged nearly 1,700 flight operations and approximately 137,450 passengers every 24 hours in 2009, making it the fifth-busiest airport in the nation and 10th busiest in the world. Total enplaned and deplaned passenger traffic at the airport was 50.2 million in 2009, down 2.1 percent below traffic from 2008. The decline, however, was significantly smaller than the drop in passenger traffic reported nationwide.

In 2009, Denver International Airport exceeded its planned capacity for its current facility. As a result, the airport is preparing for expansion over the next five to 15 years that will likely include new gates on existing concourses, upgrades to the baggage system, expanded security and parking areas, and a FasTracks commuter rail station. In addition, builders are expected to break ground in 2011 on a 500-room off-concourse hotel that will be located near a FasTracks commuter rail platform slated for completion in 2013.

Denver International Airport is home to about 16 commercial carriers, the largest of which are United Airlines, Frontier Airlines, and Southwest Airlines. These commercial carriers offer more than 160 nonstop flights from the airport to domestic destinations and 18 international locations in Europe, Central America, Mexico, and Canada. Denver International Airport's sixth runway – the longest commercial runway in the nation – gives fully-loaded jumbo jets additional length to take off. The runway also provides unrestricted access and growth potential for international flights.

Eight cargo airlines and more than 15 major and national airlines also provide an extensive freight network between Denver and other cities. The cargo and freight industry continues to suffer from increased competition with other forms of transportation. In addition, the economic downturn has contributed to high inventory levels and weak final demand resulting in a slowdown in worldwide trade. Denver International Airport handled 495 million pounds of cargo in 2009, which represents a 10.6 percent decline from cargo loads in 2008. Of the 2009 shipments, about 95 percent were freight and express while five percent were classified as mail.

Three reliever airports also serve business, recreational, and municipal users throughout the Denver metropolitan area. Centennial Airport serves the southeast metro area; Front Range Airport is located six miles southeast of Denver International Airport and serves the northeast Denver metropolitan area; and Rocky Mountain Metropolitan Airport serves the City and County of Broomfield, Jefferson, and Boulder Counties in the northwest area. Three general aviation airports – Boulder Municipal Airport, Erie Municipal Airport, and Vance Brand Municipal Airport in Longmont – also serve the Denver metropolitan area.

Rail

Rail transportation plays a major role in the movement of freight and passengers across the nation. The ability to transport large quantities of goods over long distances serves nearly every wholesale, industrial, retail, and resource-based sector of the economy and is vital to the Denver metropolitan area's economic health and global competitiveness. Across the state, 14 freight railroads cover 2,663 miles primarily moving coal, agricultural products, and consumer goods. Two Class I railroads – Burlington Northern Santa Fe and

Union Pacific – provide freight service to the Denver metropolitan area.

Passenger service from Denver is available on Amtrak's California Zephyr route, which follows a scenic route through the Rocky Mountains west of Denver and connects Chicago to San Francisco. In 2009, rail passenger traffic reflected the declining confidence in the economy of business and leisure travelers alike. Total rail passenger traffic was about 120,240 riders through Denver in 2009, a decline of 7.3 percent from 129,770 riders a year earlier.

TOURISM

According to a recent study by Longwoods International, Denver tourism activity remained relatively stable in 2009 as travel trends weakened nationwide. Visitor spending in the Denver metropolitan area was unchanged from 2008 at $3.1 billion, while the total number of overnight visitors to Denver decreased slightly to 12.1 million. Top attractions for visitors in 2009 included the 16th Street Mall and the Cherry Creek Shopping District as well as the LoDo historic district, the Colorado Mills Mall, Denver Zoo, and numerous other cultural facilities.

The region also hosts a variety of professional sports teams and venues. Denver is one of only five U.S. cities with seven professional sports franchises – the NFL Denver Broncos, the NBA Denver Nuggets, the MLB Colorado Rockies, the NHL Colorado Avalanche, the MLS Colorado Rapids, the NLL Colorado Mammoth, and the MLL Denver Outlaws.

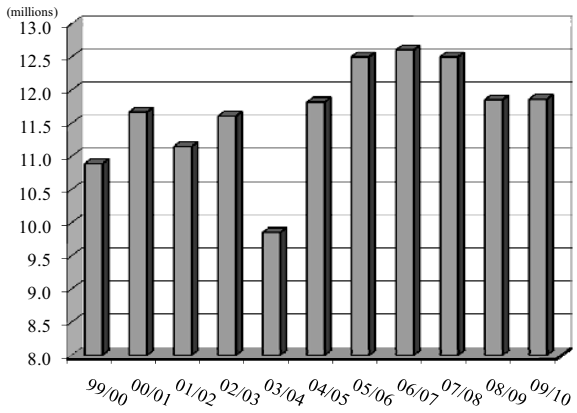
These sports teams have a significant economic impact on the Denver metropolitan area and all play in sports venues constructed within the last 15 years. Coors Field – a 76-acre, $215 million ballpark – hosted two sold-out games of the 2007 World Series. Nearby, the $364 million, 76,125-seat INVESCO Field at Mile High football stadium hosts Denver Broncos football and Denver Outlaws games as well as large public events. Dick's Sporting Goods Park opened in spring 2007 and hosts the Colorado Rapids soccer team. This 18,000-seat stadium and surrounding fully-lit, 24-field complex is considered the largest and most state-of-the-art professional stadium and field complex in the world. Finally, the $180 million Pepsi Center hosts three professional sports teams and numerous sporting and special events throughout the year.

Professional athletics in the Denver metropolitan area are well complemented by abundant opportunities for year-round outdoor recreation. The Denver metropolitan area is located on the doorstep to the Rocky Mountains and offers hiking, biking, and climbing during warmer months, and the nation's most popular destinations for ski trips during the winter months. Amid the economic downturn, Colorado skier visits managed to increase slightly in the 2009/2010 season as spring storms improved snow conditions and attracted in-state visitors to Front Range resorts. The total number of Colorado skier visits – or the count of persons skiing or snowboarding for any part of one day – increased 0.8 percent from the 2008/2009 season to approximately 11.9 million in the 2009/2010 season.

Convention activity in the Denver metropolitan area proved to be challenging as global financial uncertainty and a weak economy impacted business and leisure travel in 2009. Despite the difficult economic conditions, the Colorado Convention Center's events schedule remains full. According to data from the Denver Metro Convention and Visitors Bureau, the 2009 convention season brought 66 out-of-town meetings and events to the Colorado Convention Center that attracted 209,548 visitors and generated $417.4 million in local spending.

The Colorado Convention Center is the eighth largest public meeting facility west of the Mississippi with 584,000 square feet of exhibit space and 100,000 square feet of meeting space. In 2009, the Colorado Convention Center partnered with Greenprint Denver, MMA Renewable Ventures, Oak Leaf Energy Partners, SunPower Corp., Xcel Energy, and Namaste Solar to unveil the region's newest 300-kilowatt solar power system, making the Colorado Convention Center an ideal location for "green" meetings.

COLORADO SKIER VISITS

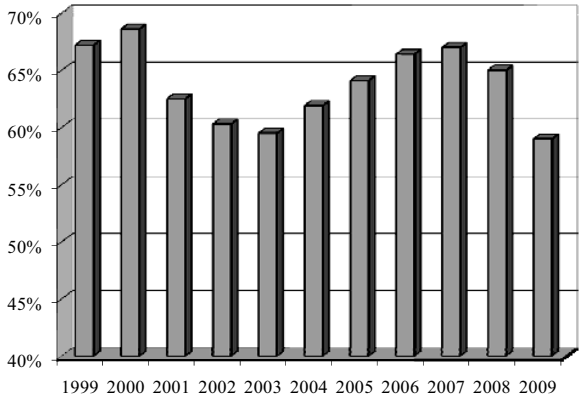


Source: Colorado Ski Country USA.

Even with weaker-than-average conditions in the hospitality sector, convention and visitor activity continues to drive development in the Denver metropolitan area. The $350 million, 45-story Four Seasons Hotel and Private Residences at 14th and Arapahoe in downtown Denver will offer 230 hotel rooms and more than 100 condominiums. The building should be completed in the fall of 2010. Along the 14th Street corridor, WPM Construction is building a 17-story, 120-room Embassy Suites that will join a series of hotels positioned to attract visitors to the Colorado Convention Center. Starwood Hotels and Resorts Worldwide, Inc. recently opened Colorado's first Element Hotel, a so-called "eco-chic" destination that offers high-efficiency appliances and fixtures, healthy dining options, and a saline-treated pool. The hotel opened near Park Meadows Mall in late 2009. Plans are also moving forward to build a hotel and cultural center for the Museum of Contemporary Art at 15th and Delgany Streets across from the museum. Ground-breaking is scheduled for late 2010.

Hotel occupancy rates in 2009 followed typical seasonal trends - rising to 72 percent in July 2009 and declining to 41.9 percent in December 2009. According to the *Rocky Mountain Lodging Report,* the average annual Denver metropolitan area hotel occupancy rate declined to 59 percent in 2009, a six-percentage point decline from the 65 percent annual average in 2008. Across the region, 2009 occupancy rates ranged from 43.1 percent in the North Denver market to 64 percent in the Northeast Denver market, or the region that includes the Stapleton area and Denver International Airport.

HOTEL OCCUPANCY RATES



Source: Rocky Mountain Lodging Report.

In conjunction with declining hotel occupancy rates in the Denver metropolitan area, the average hotel room rate declined to $106.85 in 2009 from $118.27 in 2008. This decrease reflected significant challenges posed by the economic recession in the lodging industry as businesses and consumers trimmed travel expenditures throughout the year.

SUMMARY

While the Denver metropolitan area was not immune to the Great Recession, the region's economic fundamentals are fostering recovery. The region's housing market experienced a milder contraction compared with markets across the nation with home prices heading upwards by the end of 2009. While increased sales activity and rising home prices have contributed to a relatively stable residential market, foreclosures will continue to be a challenge for homeowners in the region.

The recession impacted most industries and areas across the state, with employment declining 4.4 percent in 2009 in the Denver metropolitan area. The

Denver metropolitan area's average annual unemployment rate of 7.8 in 2009 exceeded Colorado's 7.7 percent rate but was one and one-half percentage points below the national average. Nine of the 11 industry "supersectors" in the Denver metropolitan area shed jobs in 2009. Only the education and health services and government sectors posted gains during the year.

Employment losses were accompanied by the steepest declines in consumer spending the region has ever experienced, challenging sales-tax dependent governmental budgets. Job losses also impacted the commercial real estate markets, leading to rising vacancies and declining lease rates. Thanks to limited new construction, vacancies rate increases were more moderate in the Denver metropolitan area than other parts of the country.

Throughout the recession, the Denver metropolitan area's highly educated workforce and affordable cost of living continued to attract businesses to the region. In particular, renewable energy and other "green industry" sectors, health services, and bioscience added jobs in 2009. The combination of self-employment, small business, and large firms form a solid economic base from which to forge economic recovery. The region's geographic position and diverse economy make it one of the nation's important transportation hubs, allowing it to compete effectively in the global marketplace.

Prepared By:

Development
Research Partners
10184 West Belleview Avenue, Suite 100
Littleton, Colorado 80127
Phone: 303-991-0073

DATA APPENDIX

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
POPULATION (July 1)											
United States (thousands)	279,040	282,172	285,082	287,804	290,326	293,046	295,753	298,593	301,580	304,375	307,007
Colorado	4,215,984	4,301,261	4,456,408	4,529,927	4,595,132	4,663,404	4,731,275	4,826,843	4,919,187	5,011,390	5,083,249
Denver Metropolitan Area	2,349,188	2,418,304	2,484,048	2,521,644	2,556,011	2,595,704	2,629,526	2,680,647	2,734,483	2,788,765	2,828,564
POPULATION GROWTH RATE											
United States	1.2%	1.1%	1.0%	1.0%	0.9%	0.9%	0.9%	1.0%	1.0%	0.9%	0.9%
Colorado	2.8%	2.0%	3.6%	1.6%	1.4%	1.5%	1.5%	2.0%	1.9%	1.9%	1.4%
Denver Metropolitan Area	3.0%	2.9%	2.7%	1.5%	1.4%	1.6%	1.3%	1.9%	2.0%	2.0%	1.4%
NET MIGRATION											
Colorado	79,306	85,912	79,061	34,330	25,281	27,810	27,927	55,338	51,220	52,567	29,531
Denver Metropolitan Area	47,456	46,092	41,287	12,637	8,807	13,481	8,384	25,965	28,699	29,877	13,595
NONAGRICULTURAL EMPLOYMENT											
United States (millions)	129.0	131.8	131.8	130.3	130.0	131.4	133.7	136.1	137.6	136.8	130.9
Colorado (thousands)	2,132.6	2,213.8	2,226.9	2,184.2	2,152.8	2,179.6	2,226.0	2,279.1	2,331.3	2,350.3	2,244.0
Denver Metropolitan Area (thousands)	1,318.6	1,374.9	1,375.2	1,332.8	1,314.0	1,324.7	1,350.1	1,377.5	1,407.4	1,420.9	1,358.2
NONAGRICULTURAL EMPLOYMENT GROWTH RATE											
United States	2.4%	2.2%	0.0%	-1.1%	-0.3%	1.1%	1.7%	1.8%	1.1%	-0.6%	-4.3%
Colorado	3.6%	3.8%	0.6%	-1.9%	-1.4%	1.2%	2.1%	2.4%	2.3%	0.8%	-4.5%
Denver Metropolitan Area	4.0%	4.3%	0.0%	-3.1%	-1.4%	0.8%	1.9%	2.0%	2.2%	1.0%	-4.4%

2009 EMPLOYMENT DISTRIBUTION BY INDUSTRY

	United States	Colorado	Denver Metropolitan Area
Natural Resources & Construction	5.1%	6.9%	6.0%
Manufacturing	9.1%	5.8%	5.8%
Wholesale & Retail Trade	15.4%	14.8%	15.0%
Transportation, Warehousing, Utilities	3.7%	3.2%	3.6%
Information	2.1%	3.3%	4.1%
Financial Activities	5.9%	6.6%	7.4%
Professional & Business Services	12.7%	14.7%	16.9%
Education & Health Services	14.7%	11.5%	11.6%
Leisure & Hospitality	10.0%	11.7%	10.5%
Other Services	4.1%	4.2%	3.9%
Government	17.2%	17.4%	15.3%

DATA APPENDIX

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
UNEMPLOYMENT RATE											
United States	4.2%	4.0%	4.7%	5.8%	6.0%	5.5%	5.1%	4.6%	4.6%	5.8%	9.3%
Colorado	3.0%	2.7%	3.8%	5.7%	6.1%	5.6%	5.1%	4.4%	3.9%	4.9%	7.7%
Denver Metropolitan Area	2.6%	2.6%	3.8%	5.9%	6.4%	5.8%	5.2%	4.4%	3.9%	4.9%	7.8%
CONSUMER PRICE INDEX (CPI-U, 1982-84=100)											
United States	166.6	172.2	177.1	179.9	184.0	188.9	195.3	201.6	207.3	215.3	214.5
Denver-Boulder-Greeley	166.6	173.2	181.3	184.8	186.8	187.0	190.9	197.7	202.0	209.9	208.5
INFLATION RATE											
United States	2.2%	3.4%	2.8%	1.6%	2.3%	2.7%	3.4%	3.2%	2.8%	3.8%	-0.4%
Denver-Boulder-Greeley	2.9%	4.0%	4.7%	1.9%	1.1%	0.1%	2.1%	3.6%	2.2%	3.9%	-0.6%
TOTAL PERSONAL INCOME (millions, except as noted)											
United States (billions)	$7,906	$8,555	$8,879	$9,055	$9,369	$9,929	$10,477	$11,257	$11,880	$12,226	$12,016
Colorado	$130,663	$147,056	$156,469	$157,753	$159,919	$168,588	$179,698	$194,393	$205,548	$212,320	$207,742
Denver Metropolitan Area	$82,421	$93,832	$99,609	$99,904	$100,935	$106,176	$113,048	$123,020	$129,019	$132,823	N/A
TOTAL PERSONAL INCOME GROWTH RATE											
United States	5.1%	8.2%	3.8%	2.0%	3.5%	6.0%	5.5%	7.4%	5.5%	2.9%	-1.7%
Colorado	8.8%	12.5%	6.4%	0.8%	1.4%	5.4%	6.6%	8.2%	5.7%	3.3%	-2.2%
Denver Metropolitan Area	9.3%	13.8%	6.2%	0.3%	1.0%	5.2%	6.5%	8.8%	4.9%	2.9%	N/A
PER CAPITA PERSONAL INCOME											
United States	$28,333	$30,318	$31,145	$31,462	$32,271	$33,881	$35,424	$37,698	$39,392	$40,166	$39,138
Colorado	$30,919	$33,977	$35,296	$35,023	$35,156	$36,652	$38,555	$40,899	$42,449	$43,021	$41,344
Denver Metropolitan Area	$34,963	$38,827	$40,247	$39,864	$39,940	$41,572	$43,695	$46,636	$47,936	$48,357	N/A
PER CAPITA PERSONAL INCOME GROWTH RATE											
United States	3.9%	7.0%	2.7%	1.0%	2.6%	5.0%	4.6%	6.4%	4.5%	2.0%	-2.6%
Colorado	6.0%	9.9%	3.9%	-0.8%	0.4%	4.3%	5.2%	6.1%	3.8%	1.3%	-3.9%
Denver Metropolitan Area	6.3%	11.0%	3.7%	-1.0%	0.2%	4.1%	5.1%	6.7%	2.8%	0.9%	N/A
RETAIL TRADE SALES											
United States (Billions)	$3,092	$3,290	$3,386	$3,467	$3,618	$3,841	$4,093	$4,313	$4,454	$4,409	$4,132
Colorado (millions)	$52,609	$57,955	$59,014	$58,850	$58,689	$62,288	$65,492	$70,437	$75,329	$74,760	$66,345
Denver Metropolitan Area (millions)	$31,590	$35,159	$35,657	$35,355	$35,548	$37,197	$38,589	$41,491	$44,177	$43,829	$38,880

DATA APPENDIX

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
RETAIL TRADE SALES GROWTH RATE											
United States	8.1%	6.4%	2.9%	2.4%	4.3%	6.2%	6.5%	5.4%	3.3%	-1.0%	-6.3%
Colorado	9.2%	10.2%	1.8%	-0.3%	-0.3%	6.1%	5.1%	7.6%	6.9%	-0.8%	-11.3%
Denver Metropolitan Area	11.0%	11.3%	1.4%	-0.8%	0.5%	4.6%	3.7%	7.5%	6.5%	-0.8%	-11.3%
MEDIAN HOME PRICE											
United States (thousands)	$141.2	$147.3	$156.6	$167.6	$180.2	$195.2	$219.0	$221.9	$217.9	$196.6	$172.1
Denver Metropolitan Area (thousands)	$171.3	$196.8	$218.3	$228.1	$238.2	$239.1	$247.1	$249.5	$245.4	$219.3	$219.9
EXISTING HOME SALES											
Denver Metropolitan Area	46,742	48,611	47,832	47,919	47,966	54,012	53,106	50,244	49,789	47,837	42,070
NEW RESIDENTIAL UNITS DENVER METROPOLITAN AREA											
Single Family	17,523	15,873	14,262	13,793	12,656	14,260	15,778	10,952	7,082	3,686	2,378
Two-Family	2,883	3,321	4,442	4,425	3,755	4,843	4,642	5,311	4,632	1,330	592
Multi-Family	4,784	9,116	9,090	4,085	1,858	2,681	459	1,727	3,015	4,413	438
Total Units	25,190	28,310	27,794	22,303	18,269	21,784	20,879	17,990	14,729	9,429	3,408
OFFICE VACANCY RATE											
Denver Metropolitan Area	6.5%	7.2%	10.3%	13.9%	14.4%	14.7%	13.4%	12.9%	11.9%	13.0%	13.9%
HOTEL OCCUPANCY RATE											
Denver Metropolitan Area	67.2%	68.6%	62.5%	60.3%	59.5%	61.9%	64.1%	66.4%	67.0%	65.0%	59.0%
SKIER VISITS	**99/00**	**00/01**	**01/02**	**02/03**	**03/04**	**04/05**	**05/06**	**06/07**	**07/08**	**08/09**	**09/10**
Colorado (millions)	10.9	11.7	11.1	11.6	9.9	11.8	12.5	12.6	12.5	11.9	11.9

N/A: Not Available

Sources: U.S. Department of Commerce, Bureau of the Census; Colorado Division of Local Government, Demography Section; U.S. Department of Labor, Bureau of Labor Statistics; Colorado Department of Labor and Employment, Labor Market Information; U.S. Department of Commerce, Bureau of Economic Analysis; Colorado Department of Revenue; National Association of REALTORS; Metrolist, Inc.; Home Builders Association of Metro Denver; CB Richard Ellis; CoStar Realty Information, Inc.; Rocky Mountain Lodging Report; Colorado Ski Country USA; and Colorado Convention and Visitors Bureau.

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APPENDIX L

FORM OF CONTINUING DISCLOSURE UNDERTAKING

This Continuing Disclosure Undertaking, dated August 1, 2010 (this "Undertaking"), is among the Regional Transportation District (the "District"), Denver Transit Partners, LLC (the "Company") and The Bank of New York Mellon Trust Company, N.A., as dissemination agent (the "Dissemination Agent").

Section 1. **Purpose of Undertaking**. This Undertaking is being executed and delivered by the District, the Company and the Dissemination Agent for the benefit of the holders and beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with the Rule. The District is not obligated to make payments on the Bonds, but is voluntarily executing this Undertaking because it is obligated under the Concession Agreement to make payments to the Company.

Section 2. **Definitions**. In addition to the definitions set forth in the Indenture or parenthetically defined herein, which apply to any capitalized terms used in this Undertaking unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"*Board*" means the Board of Directors of the District.

"*Company Annual Report*" means any annual report provided by the Company pursuant to, and as described in, Sections 3 and 4 of this Undertaking.

"*Bonds*" means the Tax-Exempt Private Activity Bonds (Denver Transit Partners Eagle P3 Project), Series 2010 in the aggregate principal amount of $397,835,000 issued pursuant to the Indenture.

"*Dissemination Agent*" means, initially, The Bank of New York Mellon Trust Company, N.A., or any successor Dissemination Agent designated in accordance with this Undertaking.

"*District Annual Report*" means any annual report provided by the District pursuant to, and as described in, Sections 3 and 4 of this Undertaking.

"*Indenture*" means the Indenture of Trust, dated as of August 1, 2010, between the District and The Bank of New York Mellon Trust Company, N.A., as trustee.

"*Loan Agreement*" means the Loan Agreement, dated as of August 1, 2010, between the District and the Company.

"*Material Events*" means any of the events listed in Section 5 of this Undertaking.

"*MSRB*" shall mean the Municipal Securities Rulemaking Board. The MSRB's required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system available on the Internet at http://emma.msrb.org.

"*Official Statement*" means the final Official Statement dated August 4, 2010, together with any supplements thereto, delivered in connection with the original issuance and sale of the Bonds.

"*Participating Underwriter*" means any original underwriter of the Bonds required to comply with the Rule in connection with an offering of the Bonds.

"*Rule*" means Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time (17 C.F.R. Part 240 § 240.15c2-12).

"*SEC*" means the Securities and Exchange Commission.

Section 3. **Provision of Annual Reports**

(a) The District shall provide a District Annual Report to the Dissemination Agent not later than five (5) business days prior to the end of the ninth (9^{th}) month following the end of the District's fiscal year of each year, commencing with the ninth (9^{th}) month following the end of the District's fiscal year ending December 31, 2010. The District Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Undertaking; *provided* that the audited financial statements of the District may be submitted separately from the balance of the District Annual Report. The District shall include with each submission of the District Annual Report to the Dissemination Agent a written representation addressed to the Dissemination Agent to the effect that such District Annual Report is the District Annual Report required by this Undertaking and that it complies with the requirements of Section 4 of this Undertaking.

(b) The Company shall provide a Company Annual Report to the Dissemination Agent not later than five (5) business days prior to the end of the ninth (9^{th}) month following the end of the Company's fiscal year of each year, commencing with the ninth (9^{th}) month following the end of the Company's fiscal year ending December 31, 2010. The Company Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Undertaking; *provided* that the audited financial statements of the Company may be submitted separately from the balance of the Company Annual Report. The Company shall include with each submission of the Company Annual Report to the Dissemination Agent a written representation addressed to the Dissemination Agent to the effect that such Company Annual Report is the Company Annual Report required by this Undertaking and that it complies with the requirements of Section 4 of this Undertaking.

(c) The Dissemination Agent shall provide the District Annual Report and Company Annual Report to the MSRB in electronic format as prescribed by the MSRB within four (4) business days after its receipt from the District or the Company, as applicable.

(d) If either the District or the Company is unable to provide to the Dissemination Agent a District Annual Report or a Company Annual Report by the date required in subsection (a) or (b), as applicable, the Dissemination Agent shall send a notice in substantially the form attached as Exhibit A to the MSRB.

(e) The Dissemination Agent shall:

(i) determine each year prior to the date for providing the District Annual Report and the Company Annual Report the appropriate electronic format prescribed by the MSRB;

(ii) provide written notice to the District and the Company at least forty-five (45) days prior to the date the District Annual Report or the Company Annual Report is due stating that the District Annual Report or the Company Annual Report is due as provided in subsection (a) or (b) of this Section 3, as applicable; and

(iii) file a report with the District and the Company certifying that the District Annual Report or the Company Annual Report has been provided to the MSRB pursuant to this Undertaking, stating the date it was provided and listing all the entities to which it was provided.

Section 4. **Content of Annual Reports**

(a) The District Annual Report shall contain or incorporate by reference the following:

(i) a copy of the District's annual financial statements prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, unaudited financial statements shall be provided as part of the District Annual Report and audited financial statements shall be provided to the Dissemination Agent when and if available;

(ii) historical financial information and operating data of the type shown in the tables identified in Exhibit B hereto; and

(iii) any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the District or related public entities, which are available to the public on the MSRB's Internet web site or filed with the SEC. The District shall clearly identify each such document incorporated by reference.

(b) The Company Annual Report shall contain or incorporate by reference the following:

(i) a copy of the Company's annual financial statements prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(b) above, unaudited financial statements shall be provided as part of the Company Annual Report and audited financial statements shall be provided to the Dissemination Agent when and if available; and

(ii) any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues of the Company, which are available to the public on the MSRB's Internet web site or filed with the SEC. The Company shall clearly identify each such document incorporated by reference.

Section 5. **Reporting of Material Events**. The Company shall provide or cause to be provided, in a timely manner, to the Dissemination Agent, if such event is material, and the Dissemination Agent shall thereafter promptly provide notice, as instructed by the Company, of any of the following events with respect to the Bonds, to the MSRB:

(a) principal and interest payment delinquencies;

(b) non-payment related defaults;

(c) unscheduled draws on debt service reserves reflecting financial difficulties;

(d) unscheduled draws on credit enhancements reflecting financial difficulties;

(e) substitution of credit or liquidity providers, or their failure to perform;

(f) adverse tax opinions or events affecting the tax-exempt status of the Bonds;

(g) modifications to rights of Bond holders;

(h) Bond calls;

(i) defeasances;

(j) release, substitution or sale of property securing repayment of the Bonds; or

(k) rating changes.

Section 6. **Identifying Information**. All documents provided to the MSRB pursuant to this Undertaking shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. **Termination of Reporting Obligation**. The District's, the Company's and the Dissemination Agent's obligations under this Undertaking shall terminate upon the earliest of: (a) the date of legal defeasance, prior redemption or payment in full of all of the Bonds; (b) the date that the Company or the District shall no longer constitute an "obligated person" within the meaning of the Rule; or (c) the date on which those portions of the Rule

which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds, which determination shall be evidenced by an opinion of nationally recognized bond counsel selected by the Company.

Section 8. **Amendment; Waiver**. Notwithstanding any other provision of this Undertaking, the District, the Company and the Dissemination Agent may amend this Undertaking and may waive any provision of this Undertaking, without the consent of the holders and beneficial Owners of the Bonds, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule, as evidenced by an opinion of nationally recognized bond counsel selected by the Company and delivered to the Dissemination Agent. The Dissemination Agent shall provide notice of such amendment or waiver to the MSRB.

Section 9. **Additional Information**. Nothing in this Undertaking shall be deemed to prevent the District or the Company from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any District Annual Report, Company Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Undertaking. If either the District or the Company chooses to include any information in any District Annual Report or Company Annual Report or notice of occurrence of a Material Event in addition to that which is specifically required by this Undertaking, neither the District nor the Company shall have any obligation under this Undertaking to update such information or include such in any future District Annual Report, Company Annual Report or notice of occurrence of a Material Event.

Section 10. **Default**. In the event of a failure of the District, the Company or the Dissemination Agent to comply with any provision of this Undertaking, any holder or beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District, the Company or the Dissemination Agent to comply with its obligations under this Undertaking. A default under this Undertaking shall not be deemed an event of default under the Indenture or the Loan Agreement, and the sole remedy under this Undertaking in the event of any failure of the District, the Company or the Dissemination Agent to comply with this Undertaking shall be an action to compel performance. The Dissemination Agent shall have no power or duty to enforce this Undertaking, nor shall the Dissemination Agent have any responsibility for the content of any report, disclosure or notice provided by the District or the Company. The Dissemination Agent shall have no liability to any person, including any holder or beneficial Owners of the Bonds, with respect to any reports, notices or disclosures provided to it by the District or the Company hereunder.

Section 11. **Resignation or Removal of Dissemination Agent**. The present or any future Dissemination Agent may resign at any time upon 30 days' prior written notice to the District and the Company. The Company may remove the present or any future Dissemination Agent upon 30 days' prior written notice to the Dissemination Agent and with the consent of the District. The District may remove the present or any future Dissemination Agent upon 30 days' prior written notice to the Dissemination Agent and with the consent of the Company. Such resignation or removal shall take effect upon the appointment by the Company with the consent of the District of a successor Dissemination Agent or upon execution by the Company of a written undertaking in which the Company agrees to assume all of the obligations of the Dissemination Agent hereunder, but in no event earlier than 30 days after such written notice of resignation or removal has been given. If the Dissemination Agent also serves as the Trustee under the Indenture, the Dissemination Agent may resign or be removed under this Undertaking without also resigning or being removed as Trustee under the Indenture. The new Dissemination Agent or the Company, as the case may be, shall forthwith give notice thereof to the MSRB.

Section 12. **Compensation**. As compensation for its services under this Undertaking, the Dissemination Agent shall be compensated or reimbursed by the Company for its reasonable fees and expenses (including without limitation, legal fees and expenses) in performing the services specified under this Undertaking.

Section 13. **Miscellaneous Provisions**. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with the MSRB shall be prepared and provided to it by the District or the Company, as applicable. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the District or the Company shall not be construed to mean that the Dissemination

Agent has actual knowledge of any event or condition except as may be provided by written notice from the District or the Company.

The Dissemination Agent undertakes to perform such duties and only such duties as are specifically set forth in this Undertaking and no implied covenants or obligations shall be read into this Undertaking against the Dissemination Agent. None of the provisions of this Undertaking shall require the Dissemination Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Dissemination Agent may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Dissemination Agent may consult with counsel and the advice or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel. The Dissemination Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care. The Dissemination Agent shall not be liable hereunder except for its negligence or willful misconduct.

Any bank, corporation or association into which the Dissemination Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Dissemination Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Dissemination Agent shall be the successor of the Dissemination Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

This Undertaking may be executed in counterparts.

Section 14. **Beneficiaries**. This Undertaking shall inure solely to the benefit of the District, the Company, the Dissemination Agent, the Participating Underwriter and the holders and beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 15. **Governing Law**. This Undertaking shall be governed by the laws of the State of Colorado.

IN WITNESS WHEREOF, the District, the Company and the Dissemination Agent have caused this Continuing Disclosure Undertaking to be executed in their respective names, all as of the date first above written.

REGIONAL TRANSPORTATION DISTRICT

By: _____
Name:
Title:

DENVER TRANSIT PARTNERS, LLC

By _____
Name: Troy Ailshie
Title: Authorized Signatory

By _____
Name: David Rushton
Title: Authorized Signatory

By _____
Name: Kevin Brown
Title: Authorized Signatory

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Dissemination Agent

By: _____
Name:
Title:

EXHIBIT A

NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD
OF FAILURE TO FILE ANNUAL REPORT

Name of Obligated Person: [Regional Transportation District (the "District")][Denver Transit Partners, LLC (the "Company")].

Name of Bond Issue: Regional Transportation District (Colorado), Tax-Exempt Private Activity Bonds (Denver Transit Partners Eagle P3 Project), Series 2010, dated as of their date of delivery, in the aggregate principal amount of $397,835,000 (the "Bonds").

Date of Issuance: August 12, 2010.
CUSIP No. 759151A.

NOTICE IS HEREBY GIVEN that the [District][Company] has not provided a [District][Company] Annual Report with respect to the Bonds as required by the Continuing Disclosure Undertaking, dated as of August 1, 2010, among the District, the Company and The Bank of New York Mellon Trust Company, N.A., as Dissemination Agent. The [District][Company] has represented that the [District][Company] Annual Report will be filed by [date].

Dated: _____ ____, 20___.

The Bank of New York Mellon Trust Company, N.A., as Dissemination Agent

By: _____
Name:
Title:

EXHIBIT B

INDEX OF OFFICIAL STATEMENT TABLES TO BE UPDATED BY THE DISTRICT

TABLE NUMBER	**TABLE TITLE**
Table II –	Operating Data
Table III –	Historical Sales Tax Revenues
Table V –	District Net Taxable Retail Sales
Table VI –	Statement of Obligations
Table VII –	Revenues by Source
Table X –	District Annual Ridership and Fare Revenue
Table XI –	District Advertising and Ancillary Revenues
Table XII –	District Federal Grant Receipts
Table XIII –	Summary of Statements of Revenues and Expenses And Changes in Net Assets/Retained Earnings
Table XIV –	Comparison of Budgeted and Actual Revenues and Expenses

APPENDIX M

FORMS OF APPROVING OPINIONS OF BOND COUNSEL

August 12, 2010

Regional Transportation District
1600 Blake Street
Denver, Colorado 80202

$397,835,000
Regional Transportation District (Colorado)
Tax-Exempt Private Activity Bonds
(Denver Transit Partners Eagle P3 Project), Series 2010

Ladies and Gentlemen:

We have acted as bond counsel to the Regional Transportation District (the "District"), in the State of Colorado, in connection with its issuance of the above-captioned bonds (the "Bonds") issued and secured pursuant to an authorizing resolution adopted by the Board of Directors of the District on July 13, 2010 (the "Bond Resolution"), and an Indenture of Trust, dated as of August 1, 2010 (the "Indenture"), between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). In such capacity, we have examined the District's certified proceedings and such other documents and such law of the State of Colorado and of the United States of America as we have deemed necessary to render this opinion letter. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them by the Indenture.

The proceeds of the Bonds will be used by the District to make a loan pursuant to a Loan Agreement dated as of August 1, 2010 (the "Agreement") between the District and Denver Transit Partners LLC (the "Company") to finance the cost of the Project (as defined in the Agreement).

Regarding questions of fact material to our opinions, we have relied upon the District's certified proceedings and other representations and certifications of the Company, public officials and others furnished to us without undertaking to verify the same by independent investigation.

Based upon such examination, it is our opinion as bond counsel that:

1. The Bonds have been duly authorized by the District, duly executed and delivered by authorized officials of the District, and (assuming due authentication by the Trustee) are valid and binding, special, limited obligations of the District payable solely out of the loan payments to be made by the Company to the District under the Agreement, except to the extent otherwise provided in the Indenture and the Agreement.

2. The Agreement and the Indenture have been duly authorized by the District, duly executed and delivered by authorized officials of the District and (assuming due authorization, execution and delivery by the other parties thereto) are valid and binding obligations of the District enforceable against the District in accordance with their respective terms. The opinion expressed in this paragraph 2 assumes (notwithstanding the provisions of Section 5.10 of the Indenture which designate the Uniform Commercial Code of the State of New York as the governing law thereof) that Section 5.10 of the Indenture is to be governed and construed under the laws of the State of Colorado.

3. The Indenture creates a valid pledge of the revenues, moneys and funds comprising the Trust Estate as security for the Bonds.

4. Interest on the Bonds, except for interest on any Bond for any period during which it is held by a "substantial user" of the facilities financed with the Bonds or a "related person" as such terms are used in Section 147(a) of the Internal Revenue Code of 1986, as amended to the date hereof (the "Tax Code"), is excluded from (a) gross income under federal income tax laws pursuant to Section 103 of the Tax Code, (b) alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, and (c) from Colorado taxable income and Colorado alternative minimum taxable income under Colorado income tax laws in effect as of the date hereof. The opinions expressed in this paragraph assume continuous compliance with the covenants and representations contained in the District's certified proceedings, in certain documents and certifications of the Company, and in certain other documents and certain other certifications furnished to us.

The opinions expressed in this opinion letter are subject to the following:

The obligations of the District pursuant to the Bonds, the Indenture and the Agreement are subject to the application of equitable principles, to the reasonable exercise in the future by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado, and to the exercise by the United States of America of the powers delegated to it by the Federal Constitution, including without limitation, bankruptcy powers.

In this opinion letter issued in our capacity as bond counsel, we are opining only upon those matters set forth herein, and we are not passing upon the accuracy, adequacy or completeness of the Official Statement or any other statements made in connection with any offer or sale of the Bonds or upon any federal or state tax consequences arising from the receipt or accrual of interest on or the ownership or disposition of the Bonds, except those specifically addressed herein.

In rendering the foregoing opinions, we are not passing upon matters of (i) the corporate status of the Company, (ii) the power of the Company to execute and deliver the Agreement or to perform its obligations thereunder, (iii) the validity or enforceability of the Agreement against the Company, or (iv) the perfection of any security interests under the Uniform Commercial Code of the State of New York or other benefits of Section 5.10 of the Indenture.

This opinion letter is issued as of the date hereof and we assume no obligation to revise or supplement this opinion letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

APPENDIX M-2
FORM OF OPINION

August 12, 2010

Regional Transportation District
1600 Blake Street
Denver, CO 80202

Fluor Enterprises, Inc.
100 Fluor Daniel Drive – C102B
Greenville, SC 29607-2770

Denver Transit Partners, LLC
c/o Denver Transit Holdings, LLC
999 18th Street, Suite 1201 North
Denver, CO 80202

Denver Rail (Eagle) Holdings, Inc
c/o Denver Transit Partners
999 18th St. Suite 1201
Denver, CO 80202

Denver Transit Holdings, LLC
999 18th Street, Suite 1201 North
Denver, CO 80202

Uberior Infrastructure Investments (No. 4) USA
LLC Corporation Trust Center
1209 Orange Street
Wilmington DE 19801

The Bank of New York Mellon Trust
Company, N.A.
1775 Sherman, Suite 2775
Denver, CO 80203

Re: Concession Agreement between the Regional Transportation District and Denver Transit Partners, LLC

Ladies and Gentlemen:

We have acted as bond counsel to the Regional Transportation District (the "District"), in the State of Colorado, in connection with its execution and delivery of:

(i) an Indenture of Trust, dated as of October 1, 2006, as amended (the "2006 FasTracks Indenture") between the District and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee");

(ii) an Indenture of Trust dated as of May 1, 2007, as amended (the "2007 FasTracks Indenture") between the District and the Trustee (and together with the 2006 FasTracks Indenture, the "FasTracks Indentures"); and

(iii) a Concession Agreement, between the District and Denver Transit Partners, LLC (the "Concessionaire"), dated July 9, 2010, as amended on July 22, 2010, and as further amended on August 12, 2010 (the "Agreement").

In such capacity as bond counsel, we have examined the FasTracks Indentures, the Agreement, the certified proceedings of the District in connection with a ballot issue election authorizing a tax and debt increase held in the District on November 2, 2004 (the "Election"), and such other documents and such law of the State of Colorado as we have deemed necessary to render this opinion letter. Regarding questions of fact material to our opinions, we have relied upon the District's certified proceedings and other representations and certifications of public officials and others furnished to us without undertaking to verify the same by independent investigation. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them by the FasTracks Indentures or by the Agreement. In rendering the opinions below, we have assumed that the Agreement, except for Sections 30.3 (*TABOR Portion*) and 42.4 (*Compensation Following Termination*) thereof, constitutes a valid and binding obligation of the District and is enforceable against the District in accordance with its terms, and we have further

assumed that the Agreement constitutes a valid and binding obligation of the Concessionaire and is enforceable against the Concessionaire in accordance with its terms.

Based upon such examination and subject to the assumptions set forth in this opinion letter, it is our opinion as bond counsel that:

1. The FasTracks Indentures constitute valid and binding obligations of the District, enforceable in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, or other similar laws affecting the rights and remedies of creditors generally, and subject to the application of equitable principles and to the reasonable exercise in the future by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado.

2. The District's obligations in Section 30.3 (*TABOR Portion*) of the Agreement to pay the TABOR Portion and in Section 42.4 (*Compensation Following Termination*) of the Agreement to pay the Additional TABOR Portion are authorized pursuant to the Election and comply with the requirements of the Colorado Constitution. The District's obligations in Section 30.3 (*TABOR Portion*) of the Agreement to pay the TABOR Portion and in Section 42.4 (*Compensation Following Termination*) of the Agreement to pay the Additional TABOR Portion have been duly authorized and incurred in accordance with law, including the Act, and are entitled to the benefits of the Act.

3. The RTD Appropriation Obligations are not multiple fiscal year direct or indirect debt or other financial obligations and do not require voter approval pursuant to the Colorado Constitution.

4. Each of the District's obligations in Section 30.3 (*TABOR Portion*) of the Agreement to pay the TABOR Portion and in Section 42.4 (*Compensation Following Termination*) of the Agreement to pay the Additional TABOR Portion constitutes a Subordinate Lien Bond under the FasTracks Indentures, is a valid and binding, special, limited obligation of the District payable from and secured by a lien on the RTD Pledged Revenues, and is enforceable in accordance with the terms of said Section 30.3 (*TABOR Portion*) or Section 42.4 (*Compensation Following Termination*), respectively, except as may be limited by bankruptcy, insolvency, or other similar laws affecting the rights and remedies of creditors generally, and subject to the application of equitable principles and to the reasonable exercise in the future by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado. If the Concessionaire delivers an Additional TABOR Portion Notice to the District pursuant to Section 30.3(h) of the Agreement prior to January 1, 2011, the District's obligation to pay the Additional TABOR Portion in the dollar amounts and on the dates designated in such Additional TABOR Portion Notice is an obligation of the District that was authorized, issued and incurred by the District prior to January 1, 2011, pursuant to a contract that was in full force and effect and enforceable against the District in accordance with the terms of Section 42.4 of the Agreement prior to January 1, 2011, except as may be limited by bankruptcy, insolvency or other similar laws affecting the rights and remedies of creditors generally, and subject to the application of equitable principles and to the reasonable exercise in the future by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado. We are not opining on the validity or enforceability of any provisions of the Agreement other than the provisions of Section 30.3 (*TABOR Portion*) thereof obligating the District to pay the TABOR Portion and Section 42.4 (*Compensation Following Termination*) thereof obligating the District to pay the Additional TABOR Portion.

5. As permitted by Section 3.05(g) of each of the FasTracks Indentures and as required by the Agreement, the District has duly authorized the Trustee's Instructions dated August 12, 2010 (the "Instructions") pursuant to Resolution No. 10, Series 2010.

6. Pursuant to Section 30.3 (*TABOR Portion*) of the Agreement, the Instructions have been validly executed and delivered by the District's Chair of the Board of Directors as of the date hereof and may not be materially amended without the Concessionaire's prior written consent.

This opinion letter, issued at the request of the District, is limited to the matters expressly stated herein, and no other opinion is implied or may be inferred. We are qualified to practice law in the State of Colorado and do not purport to be expert in, or to express any opinion herein concerning, any law other than the laws of the State of Colorado.

This opinion letter is issued as of the date hereof and we assume no obligation to revise or supplement this opinion letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion letter is delivered to the District, the Concessionaire, the Bank of New York Mellon Trust Company, N.A. ("BNY") in its capacity as trustee under an Indenture of Trust dated as of August 1, 2010, between the District and BNY, and the Initial Shareholders solely for their information and benefit in connection with the initial execution and delivery of the Agreement and may not be relied upon by the District, the Concessionaire, BNY or the Initial Shareholders for any other purpose or relied upon by any other party without the prior written consent of this firm.

No attorney-client relationship has existed or exists between us and anyone other than the District in connection with the execution and delivery of the Agreement by virtue of this opinion letter. With respect to the execution and delivery of the Agreement, the Concessionaire, BNY, and the Initial Shareholders have each been independently represented by their respective counsel.

Respectfully submitted,

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APPENDIX N

BOOK-ENTRY-ONLY SYSTEM

The information in this section concerning the DTC and DTC's book-entry-only system has been obtained from DTC, and the Company, the District and the Underwriters take no responsibility for the accuracy thereof.

The Depository Trust Company ("DTC") will act as the securities depository for the Bonds. The Bonds will be issued as fully registered securities in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each maturity of the Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3,500,000 issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for the physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtcc.org. Please note that these website addresses are included herein as active textual references only, and the information contained on (or accessed through) these websites is not incorporated herein and should not be construed as part of this Official Statement.

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "Beneficial Owner") will in turn be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by

arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults and proposed amendments to the Security Documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest in such maturity of each Direct Participant to be redeemed.

Neither DTC nor Cede & Co. (nor any such other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an omnibus proxy to the District as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the omnibus proxy).

Principal and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Trustee on the payment date in accordance with their respective holdings shown on DTC's records. Payments by Direct or Indirect Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Direct or Indirect Participant and not of DTC, the Trustee or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the District or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, bond certificates are required to be printed and delivered to the Beneficial Owners.

The Company may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered to DTC.

Each person for whom a Direct or Indirect Participant acquires an interest in the Bonds, as nominee, may desire to make arrangements with such Direct or Indirect Participant to receive a credit balance in the records of such Direct or Indirect Participant, and may desire to make arrangements with such Direct or Indirect Participant to have all notices of redemption or other communications to DTC, which may affect such persons, to be forwarded in writing by such Direct or Indirect Participant and to have notification made of all interest payments. NEITHER THE DISTRICT NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH DIRECT OR INDIRECT PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE BONDS.

So long as Cede & Co. is the registered owner of the Bonds, as nominee for DTC, references herein to the Owners of the Bonds or registered owners of the Bonds (other than under the sections "TAX MATTERS" and "CONTINUING DISCLOSURE OF INFORMATION" in this Official Statement) shall mean Cede & Co., as aforesaid, and shall not mean the Beneficial Owners of the Bonds.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the Trustee to DTC only.

For every transfer and exchange of Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

The Company, without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Company determines that (i) DTC is unable to discharge its responsibilities with respect to the Bonds, or (ii) a continuation of the requirement that all of the outstanding Bonds be registered in the registration books kept by the Trustee in the name of Cede & Co., as nominee of DTC, is not in the best interests of the Beneficial Owners. In the event that no substitute securities depository is found by the District or restricted registration is no longer in effect, bond certificates will be delivered.

The requirement for physical delivery of the Bonds in connection with a purchase in lieu of redemption will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Bonds to the Trustee's DTC account.

NONE OF THE DISTRICT, THE UNDERWRITERS NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT; (II) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE BONDS; (III) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE BONDS; (IV) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF THE BONDS; OR (V) ANY OTHER MATTER.

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REGIONAL TRANSPORTATION DISTRICT • TAX-EXEMPT PRIVATE ACTIVITY BONDS (DENVER TRANSIT PARTNERS EAGLE P3 PROJECT), SERIES 2010

DENVER
TRANSIT
PARTNERS

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