

**DENVER UNION STATION PROJECT AUTHORITY**

**Disadvantaged Business Enterprise (DBE) and  
Title VI Objectives/Policy Statement**

**I. Introduction**

The Denver Union Station Project Authority (“DUSPA”) and the Regional Transportation District (“RTD”) entered into those certain loan agreements by and among the United States Department of Transportation (“DOT”) acting through its Federal Highway Administrator (“TIFIA Loan”) and through the Federal Railroad Administration (“RRIF” Loan, and together with the TIFIA Loan, the “Loans”), on July 23, 2010. Prior to entering into the Loans, DUSPA and RTD also agreed to and entered into the Second Amendment to the DUSPA/RTD Initial Funding, Reimbursement and Project Coordination Agreement dated July 16, 2010 (“Second Amendment”). DUSPA is memorializing its commitment to fulfill its DBE and Title VI obligations with respect to the Denver Union Station Project (the DUS Project”) insofar as the Disadvantaged Business Enterprise (“DBE”) and Title VI obligations run to DUSPA and to provide any assistance and cooperation to RTD as the entity reporting to the Federal Transit Administration (“FTA”) under its DBE and Title VI programs. The Second Amendment was approved by a unanimous vote of the DUSPA Board of Directors on June 10, 2010. The Loan Agreements were approved by a unanimous vote of the DUSPA Board of Directors on July, 16, 2010.

RTD and DUSPA, with the understanding that RTD has specialized knowledge and experience in matters relating to the execution of standard terms and conditions governing the administration of projects supported with federal assistance as awarded by DOT, have agreed in the Second Amendment that DUSPA should delegate to RTD the responsibility of administration of those portions of the Compliance Agreement as set forth in Exhibit E to the TIFIA Loan Agreement. (The Second Amendment is attached as **Exhibit A**.) The Second Amendment was negotiated in conjunction with the negotiation of the Compliance Agreement, which serves as an adjunct to the TIFIA Loan and is incorporated by reference in the RRIF Loan. The Compliance Agreement requires its borrowers (RTD and DUSPA), among other things, to meet the DBE requirements under 49 C.F.R. Part 26.

RTD has a long-established DBE Program in accordance with regulations of DOT, 49 C.F.R. Part 26. RTD has also established a Title VI Program in accordance with Title VI of the Civil Rights Act of 1964; Title 49, Chapter 53, Section 5332 of the United States Code; and the FTA’s Circular 4702.1A, “Title VI Program Guidelines for Federal Transit Administration Recipients.” The RTD DBE Plan has been and continues to be in effect since prior to the time the Loans were entered into. RTD’s updated DBE Plan policy statement is dated May 24, 2011 and reflects RTD’s DBE Plan as adopted by the DUSPA Board of Directors on July 16, 2010 (The RTD DBE Plan is attached as **Exhibit B**).

The Second Amendment (i) provides for the delegation of duties by DUSPA to RTD concerning certain federal compliance and accounting functions required of federal funds recipients or sub-recipients, (ii) establishes the general division of federal compliance and accounting responsibilities between RTD and Trammell Crow Company (“TCC”) on behalf of DUSPA, (iii) sets forth the responsibilities of RTD, DUSPA and TCC in carrying out those functions required of DUSPA as a federal funds recipient or sub-recipient, and (iv) provides for payment of costs associated with the provision of federal compliance and accounting services and goods by RTD to DUSPA (See **Exhibit A** at Paragraph A (3)).

Pursuant to the Second Amendment, DUSPA adopted RTD’s applicable Policies and Procedures, including its DBE and Title VI plans (See **Exhibit A** at Paragraph 4 (c) (ii)). Upon adoption by DUSPA of RTD’s Policies and Procedures, RTD then administers on behalf of DUSPA appropriate Policies and Procedures to ensure compliance with all federal and loan policies and regulations applicable to the DUS Project funding including without limitation, procurement policies, DBE policies, and tracking of all certifications required for use of federal funds in payments to grantees, sub-recipients or contractors (See **Exhibit A** at Paragraph 4 (a) (iii)). This policy statement is intended to express DUSPA’s adherence to a DBE Plan and a Title VI compliance plan in accordance with those duties delegated to RTD on DUSPA’s behalf.

## **II. DUSPA DBE Policy Statement**

DUSPA has adopted its DBE program in accordance with regulations of DOT, 49 C.F.R. Part 26. DUSPA has received Federal financial assistance from DOT and as a condition of receiving this assistance, DUSPA has signed an assurance that it will comply with 49 C.F.R. Part 26.

It is the policy of DUSPA to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to receive and participate in the DUS Project. DUSPA has delegated to the RTD the duty of compliance and reporting under the RTD DBE Program on behalf of DUSPA. In working with the RTD, it is also the policy of DUSPA:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts for the DUS Project;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

Christina Tubb has been delegated by RTD as the DBE Liaison Officer for the DUS Project. In that capacity, Christina Tubb is responsible for implementing those aspects of the

DBE program as set forth in the Second Amendment. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by DUSPA and RTD in the Loans with the DOT.

It is the policy of DUSPA to comply with all federal and loan policies and regulations applicable to the DUS project funding and to follow the policies in use by RTD including, but not limited to complying with direction from the RTD delegated DBE Liaison Officer who is responsible for overseeing all aspects of the RTD DBE Program.

Through RTD and otherwise, DUSPA has disseminated this policy statement to the DUSPA Board of Directors and all of the components of its organization. DUSPA and RTD have distributed this policy statement to DBE and non-DBE business communities that perform work for DUSPA on the DUS Project. Answers to any questions may be obtained by contacting the RTD Civil Rights Division at (303) 299-2126. All related correspondence can be sent to the RTD Civil Right Division, Attention DBE Liaison Officer, 1600 Blake Street, Blk-31, Denver, Colorado 80202.

DUSPA's DBE Plan deviates slightly from RTD's in two respects: (1) DUSPA's organizational chart differs from that of RTD (See **Attachment 1**, attached as **Exhibit C**); and (2) DUSPA's overall DBE project goal differs from that of RTD (See **Attachment 4**, attached as **Exhibit D**). Both the organizational chart and the goal sheets (including calculations) are attached for inspection and convenience.

### **III. DUSPA Title VI Policy Statement**

It is the policy of DUSPA to comply with Title VI of the Civil Rights Act of 1964, Title 49, Chapter 53, Section 5332 of the United States Code; and the FTAs Circular 4702.1A, "Title VI Program Guidelines for FTA Recipients, dated May 13, 2007.

The objectives of the FTA Circular 4702.1A are to provide guidance and procedures to help FTA recipients and subrecipients to:

- a. Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
- b. Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- c. Promote the full and fair participation of all affected populations in transportation decision making;
- d. Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations;

- e. Ensure meaningful access to programs and activities by persons with limited English proficiency.

Although DUSPA is a recipient of federal assistance funds, DUSPA will neither own nor operate the transportation facilities that it is constructing as a recipient of federal funds. DUSPA is serving to finance and construct the DUS Project, pursuant to a “Turn-Over Schedule” that requires a “hand off” of the completed elements of the DUS Project from DUSPA to RTD. RTD will own and operate these facilities.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in programs receiving federal financial assistance. Analysis to demonstrate compliance with Title VI was applicable to the DUS Project as part of the Environmental Impact Statement, which was performed on behalf of the RTD. DUSPA complies with Title VI by the inclusion of such prohibitions in its contracts with vendors. All DUSPA contracts contain the Title VI federal requirements and all DUSPA vendors certify that they do not discriminate on the basis of race, color or national origin.

Otherwise, Title VI is primarily applicable to transit agencies in that these agencies must show that sections of their service areas with higher concentrations of minority populations are not subjected to discriminatory practices such as poorer levels of service, older buses or greater travel times than areas with lower concentrations of minority populations. Because DUSPA is not a transit agency, these aspects of Title VI do not apply. In any case, however, pursuant to the Second Amendment, RTD administers on behalf of DUSPA appropriate Policies and Procedures to ensure compliance with all of the Title VI and Circular 4702.1A requirements.

DUSPA shall assist with and comply with the direction of RTD to ensure that there is no discrimination in the provision of any public services, if any, prior to turn over of DUS Project assets by DUSPA to the RTD. DUSPA shall comply with the direction of the RTD in the monitoring of the RTD’s Title VI program plan/environmental justice plan and the Limited English Proficiency and persons with disabilities plan, posting requirements or monitoring of claims. Otherwise, RTD has accepted the delegation of duties concerning DUSPA’s compliance with Title VI and the FTA Circular 4702.1A.

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Elbra Wedgeworth, President

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Date

**EXHIBIT A**  
**(SECOND AMENDMENT)**

**EXHIBIT B**  
**(RTD DBE PLAN)**

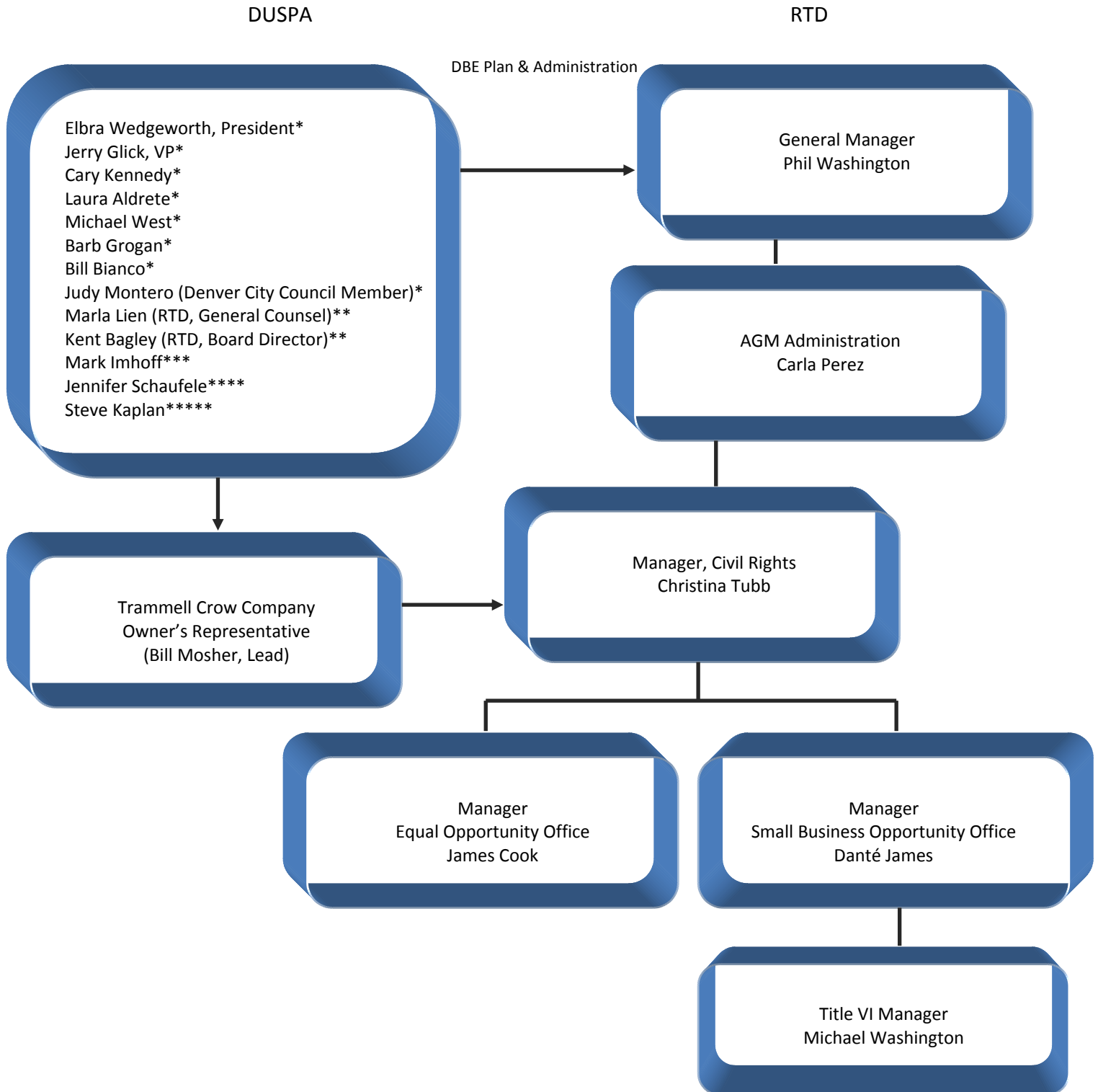
**EXHIBIT C**  
**(ATTACHMENT 1)**

**EXHIBIT D**  
**(ATTACHMENT 4)**



## ATTACHMENT 1

### DUSPA ORGANIZATIONAL CHART – DBE PLAN



- \* City of Denver Appointee
- \*\* RTD Appointee
- \*\*\* CDOT Appointee
- \*\*\*\* Denver Regional Council of Governments Appointee
- \*\*\*\*\* DUS Metropolitan District Appointee

# DUSPA Overall DBE Goal and Methodology: FY 2012-2014

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The Denver Union Station Project Authority (DUSPA) has established an Overall Disadvantaged Business Enterprise (DBE) goal of **8.99%** for Fiscal Years 2012-2014.

## Overall Goal Development Procedure

The methodology used to establish the Overall DBE goal will involve a three-step process. That three-step process will rely on the current number of DBE firms certified via the Colorado Unified Certification Program and the Colorado market at large as represented by the 2007 Economic Census. Step-One, will be the calculation of the DBE availability of the Colorado Market. Step-Two will apply that DBE Availability to the anticipated federal expenditures for the applicable fiscal years to establish the overall goal. Step-Three is the final calculation, identifying the portions of the goal to be reached race neutrally and race consciously.

### Step #1 – DBE Availability Calculation

The purpose of calculating the DBE availability is to provide a base figure to determine what percentage of the potential firms bidding on DOT- assisted contracts in Colorado are certified DBEs. To calculate the DBE availability, the number of certified DBE firms will be divided by the total number firms in the Colorado market. The quotient is the percentage of the Colorado market represented by DBEs. The only firms that will be taken into consideration will be those performing work in the NAICS codes relevant to the contracts expected to receive federal funding. To determine which NAICS codes are relevant to the anticipated federal expenditures, the scope of work associated with the Denver Union Station (DUS) project was carefully analyzed for contracting opportunities.

The DUS project consists of the construction of a multimodal 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, Downtown Circulator, and intercity buses, taxis, shuttles, vans, limousines, bicycles and pedestrians. The scope of work for the project generally includes: design, construction (build) and owner's representation (Project management and Legal Services). While the owner's representation opportunities essentially incorporate two disciplines, the design and construction elements are a polar opposite, yielding a large variety of disciplines in professional services and horizontal construction.

Given the vast scope of the DUS project, we will also consider the amount of DBEs against the number of businesses identified by the 2007 Economic Census in the categories of construction, professional services, and supplies to identify the DBE Availability. Exhibit 1.1 identifies the two digit NAICS codes within each of these categories. Exhibit 1.2 is the final calculation of the DBE Availability for each category.

**Exhibit 1.1**

<b>Two Digit NAICS Codes by Work Category</b>		
<b>Construction</b>	<b>Professional Services</b>	<b>Supplies</b>
<b>23</b>	<b>54</b>	<b>42</b>
<b>48</b>		<b>44</b>
<b>56</b>		<b>45</b>

**Exhibit 1.2**

<b><u>DBE Availability:</u> Calculated by dividing DBEs by Bidders under each Category</b>			
<b>Categories of work</b>	<b>Construction</b>	<b>Professional Services</b>	<b>Supplies</b>
Number DBEs under related NAICS codes	<b>2,874</b>	<b>750</b>	<b>291</b>
Total number of Businesses in the Colorado Market under related NAICS codes	<b>29,642</b>	<b>22,696</b>	<b>26,718</b>
DBE Availability	<b>9.70%</b>	<b>3.30%</b>	<b>1.09%</b>

## **Step #2 – Overall Goal Calculation**

Step One of this goal development process revealed a DBE availability of 9.7% in construction, 3.30% in professional services and 1.09% in supplies of the Colorado market. Step Two of this process will calculate the Overall DBE Goal by multiplying the anticipated federal expenditures per NAICS by the respective DBE Availability. The federal expenditures to be applied to the construction category solely include costs attributable to the “Build” portion of the Design/Build. Appropriately, the professional services expenditures mainly include the design portion of the Design/Build and the Owner's Representation costs.

To fund the DUS project, DUSPA has received DOT funding from multiple sources to include American Recovery and Reinvestment Act (ARRA) grants and a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, resulting in \$164 million in federal financial assistance. Using the DBE Availability and the anticipated federal expenditures, we can calculate the total DBE Amount for each category, which is the figure used to determine the overall goal. The DBE amount is calculated by multiplying the total expenditure of each category by the applicable DBE availability (Exhibit 2). The sum of the addition of the DBE Amount of each category identifies the Overall DBE goal.

## Exhibit 2

<b><u>The Total DBE Amount:</u> Calculated by multiplying the DBE availability under each Category</b>			
<b>Categories</b>	<b>Total Federal Expenditures</b>	<b>DBE Availability</b>	<b>DBE Amount</b>
Construction	\$145,100,235.02	9.70%	\$14,074,722.80
Professional Services	\$19,799,764.98	3.30%	\$653,392.24
Supplies	\$0.00	1.09%	\$0.00
<b>Total</b>	<b>\$164,900,000.00</b>	<b>8.99%</b>	<b>\$14,728,115.04</b>

### Step #3 – Race Neutral and Race Conscious Goal Calculation

Because DUSPA has no historical contracting data of direct relevance to utilize in determining the split between race neutral and race conscious participation, we will rely on the CDOT Statewide Transportation Disparity Study of 2009. CDOT's disparity study recommended a race conscious percentage of 17% of the project goal and race neutral percentage of 83% of the project goal. Exhibit 3 is a summary of the DUSPA Overall Goal and its race conscious and race neutral split as recommended by the disparity study.

### Exhibit 3

Goal Type	Percentage of Overall Goal	Overall Goal Percentage	Overall Goal Dollar Amount
Race Neutral	83.22%	7.48%	\$ 12,256,737.34
Race Conscious	16.78%	1.51%	\$ 2,471,377.70
<b>Total Overall Goal</b>	<b>100.00%</b>	<b>8.99%</b>	<b>\$ 14,728,115.04</b>

Therefore, the DUSPA Overall DBE goal is= **8.99%**. This goal sets the race-neutral portion at 7.48% and the race-conscious portion of the goal at 1.51%. DUSPA will revisit the goal as needed to ensure that the goal remains narrowly tailored and reflective of the allocation of federal funds.