<u>Opinion of Counsel</u> — each grantee must be legally empowered to carry out the activities specified in the grant. Obtain from grantee an Opinion of Counsel citing the legal authority that enables grantee to apply for, receive and spend FTA funds and to provide local match, if required. Opinion needs to include statement affirming that attorney knows of no legal impediment to grantee's implementing the project if funds are awarded. Regional Office staff may require the resubmission of the Opinion of Counsel document from established grantees in certain circumstances, such as anything that impacts legal capacity including, but not limited to, litigations and restructuring.

This is kept on file in the Regional Office.

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January 7, 2009



FTA Application(s)

Dear

This is in reply to the request from your office that we review the above-captioned application for a grant under Title 49 of the U.S. Code, Chapter 53.

Re:

The have previously agreed to become party to the agreement executed on July 23, 1975, by the and transit employee labor organizations. The terms and conditions of the July 23, 1975 agreement provide protections to employees represented by the union which satisfy the requirements of 49 U.S.C., Section 5333(b) for operating assistance.

In connection with a previous grant application, the parties have also agreed that the terms and conditions of the July 23, 1975 agreement, as supplemented by a side letter dated September 20, 1991, shall be made applicable to capital projects. The July 23, 1975 agreement, as supplemented, provides to employees represented by the union protections satisfying the requirements of 49 U.S.C., Section 5333(b) for capital assistance.

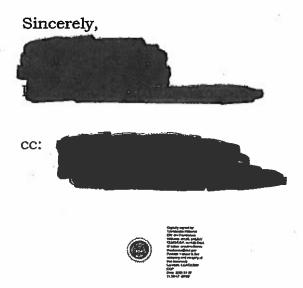
The parties have agreed that the July 23, 1975 agreement, and the July 23, 1975 agreement, as supplemented for capital projects, shall be made applicable to the instant project.

Accordingly, the Department of Labor makes the certification called for under the statute with respect to the instant project on condition that:

- 1. This letter and the terms and conditions of the agreement dated July 23, 1975, shall be made applicable to the operating portion of the instant project and made part of the contract of assistance, by reference;
- 2. This letter and the terms and conditions of the July 23, 1975 agreement, as supplemented, shall be made applicable to the capital portion of the instant project and made part of the contract of assistance, by reference;
- 3. The term "project" as used in the July 23, 1975 agreement and the July 23, 1975 agreement, as supplemented, shall be deemed to cover and refer to the instant project;
- 4. The protective arrangements certified by the Secretary of Labor are intended for the primary and direct benefit of transit employees in the service area of the project. These employees are intended third-party beneficiaries to the employee protective arrangements referenced in the grant contract between the U.S. Department of Transportation and and the contract so signify by executing that contract. Employees, not represented by any labor organization, or if so represented through their representative on their behalf, may assert claims with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government;
- 5. Disputes over the interpretation, application and enforcement of the terms and conditions of the protective arrangements certified by the Department of Labor, which include this letter of certification, shall be resolved in accordance with the provisions in the aforementioned arrangements for the resolution of such disputes; and
- 6. Employees of mass transportation providers in the service area of the project who are not represented by a union party to, or otherwise referenced in the certification letter, shall be afforded substantially the same levels of protections as are afforded to the employees represented by the union(s) under the above referenced protective arrangements and this certification. Such protections include procedural rights and

remedies as well as protections for individual employees affected by the project.

Should a dispute remain after exhausting any available remedies under the protective arrangements and absent mutual agreement to utilize any other final and binding resolution procedure, any party to the dispute may submit the controversy to final and binding arbitration. With respect to a dispute involving a non-party or non-referenced union, if a component of its parent union is already subject to a protective arrangement, the arbitration procedures of that arrangement will be applicable. If no component of its parent union is subject to the arrangements, the Recipient or the union may request the American Arbitration Association to furnish an arbitrator and administer a final and binding resolution of the dispute under its Labor Arbitration Rules. If the employees are not represented by a union for purposes of collective bargaining, the Recipient or employee(s) may request the Secretary of Labor to designate a neutral third party or appoint a staff member to serve as arbitrator and render a final and binding determination of the dispute.



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