

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-03111-CMA-KLM

JULIE REISKIN, et al., on behalf of herself and others similarly situated,

Plaintiffs,

v.

REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of
Colorado,

Defendant.

**REPRESENTATIVE PLAINTIFFS' UNOPPOSED MOTION FOR
CERTIFICATION OF A CLASS FOR SETTLEMENT PURPOSES ONLY AND
PRELIMINARY APPROVAL OF CLASS SETTLEMENT AGREEMENT**

Representative Plaintiffs, Julie Reiskin, Douglas Howey, Tina McDonald, Randy Kilbourn, and Joe Beaver,¹ respectfully submit this Unopposed Motion for Certification of a Class for Settlement Purposes Only and Preliminary Approval of Class Settlement Agreement (“Motion”).² After a year and a half of extensive, arm’s-length negotiations over alleged violations of the requirements of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”) concerning accessibility for people who use wheelchairs, as defined in the ADA and in the Class

¹ The Settlement Agreement provides that, out of the eighteen current Plaintiffs, five will serve as Representative Plaintiffs of the settlement class for manageability purposes. All Plaintiffs have agreed to the proposed class settlement.

² Pursuant to D.C.COLO.LCIVR 7.1(a), counsel for Plaintiffs certifies that they have conferred in good faith with counsel for Defendant regarding this Motion. Defendant does not oppose the relief requested herein.

Settlement Agreement entered into by the Parties (“Settlement Agreement”),³ Plaintiffs and Defendant Regional Transportation District (“RTD”) have reached a comprehensive settlement that provides substantial benefits to the class.

To implement this Settlement Agreement, as fully explained herein, Plaintiffs respectfully request that the Court:

1. Certify the proposed class for settlement purposes only under Fed. R. Civ. P. 23(b)(2) and (b)(3), as detailed herein;
2. Appoint Representative Plaintiffs as the representatives of the class;
3. Appoint Kevin Williams and Andrew Montoya of the Colorado Cross-Disability Coalition (“CCDC”) as Class Counsel;
4. Grant preliminary approval of the Settlement Agreement attached to this Motion;
5. Set dates for the submission of any objections to the Settlement Agreement or requests for exclusion from the damages release;
6. Grant approval of the Class Notice Procedures detailed in Section IV and Exhibits D, E, and F to the Settlement Agreement, and authorize the proposed notice dissemination plan described therein;
7. Enter an order enjoining class members from initiating or prosecuting any litigation relating to the claims resolved by the Settlement Agreement against RTD pending the Court’s entry of Final Order and Judgment;

³ See 49 C.F.R. § 37.3 and I.19 of the Settlement Agreement. A fully executed copy of the Settlement Agreement is attached hereto as **Exhibit 1**.

8. Set a deadline for Class Counsel’s Unopposed Motion for Attorneys’ Fees and Costs;
9. Set a deadline for Plaintiffs’ Unopposed Motion for Final Approval; and
10. Set a date for a Final Approval Hearing.

I. **BACKGROUND**

A. **Legal Background**

Title II of the ADA of 1990, 42 U.S.C. § 12131, *et seq.* prohibits discrimination on the basis of disability by public entities. RTD, a Special Statutory District, Colo. Rev. Stat. § 32-9-101 *et seq.*, is a “public entity” under the ADA. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, prohibits discrimination on the basis of disability by recipients of federal financial assistance, such as RTD. The ADA, Section 504, and their respective implementing regulations, contain broad anti-discrimination mandates as well as specific requirements as to the construction, maintenance, and design of accessible seating on light rail vehicles (“LRVs”). For example, 49 C.F.R. § 37.5(a) states “[n]o entity shall discriminate against an individual with a disability in connection with the provision of transportation service.” Like its statutory counterpart 42 U.S.C. § 12142(a), 49 C.F.R. § 37.79 requires “Each public entity operating a . . . light rail system making a solicitation after August 25, 1990, to purchase or lease a new . . . light rail vehicle for use on the system shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.” Under the Section 504 regulations, “[r]ecipients [of Federal financial assistance] . . . shall comply with all applicable requirements of the [ADA] (42 U.S.C. 12101-12213)

including the Department's ADA regulations (49 CFR parts 37 and 38) the regulations of the Department of Justice implementing Titles II and III of the ADA." 49 C.F.R. § 27.19(a).

These accessibility designs are necessary to permit people with mobility devices to access public transportation, specifically LRVs. Subpart D of Part 38 of Title 49 pertains to "Light Rail Vehicles and Systems;" see, e.g., 49 C.F.R. §38.77(c) (requiring that "at all doors . . . [all interior features of LRVs] shall be located so as to allow a route at least 32 inches wide so that at least two wheelchair or mobility aid users can enter the vehicle and position the wheelchairs or mobility aids in areas, each having a minimum clear space of 48 inches by 30 inches, which do not unduly restrict movement of other passengers[;]" and 49 C.F.R. §38.83(a)(1) (requiring "[a]ll new light rail vehicles . . . shall provide . . . sufficient clearances to permit at least two wheelchair or mobility aid users to reach areas, each with a minimum clear floor space of 48 inches by 30 inches, which do not unduly restrict passenger flow.") The regulations implementing the requirements for LRVs also prescribe what LRV operators are required to do when an individual with a disability enters a vehicle and needs to sit in an accessible seating area. The regulations state how and under what conditions the LRV operator shall ask the persons seated in that area to move in order to allow the individual with a disability to occupy the accessibility seating area. 49 C.F.R. § 37.167(j).

In the putative class action that led to the proposed class settlement before the Court, Plaintiffs alleged RTD had violated requirements set forth under the ADA and Section 504 governing the design and construction of light rail vehicles as they are used

by individuals with disabilities who use wheelchairs and mobility devices. Plaintiffs alleged that RTD had failed to properly instruct and train its LRV operators to follow regulatory instructions regarding asking passengers to move from the wheelchair and mobility device locations as set forth in the regulations.

RTD denies all of Plaintiffs' allegations regarding violations of the disability rights laws, but, nevertheless, the Parties have decided to resolve their claims in a Settlement Agreement without proceeding to trial.

B. Factual Background

1. Plaintiffs' Experiences Leading to This Lawsuit.

Plaintiffs alleged that CCDC had received complaints from individual members who use wheelchairs and other mobility devices that experienced difficulties getting to and using the designated accessible seating areas on LRVs. They also alleged that LRV operators failed to request that individuals who do not appear to have disabilities to move from the accessibility area. CCDC also received complaints from individuals who use wheelchairs or mobility devices that they blocked traffic flow and other passengers while seated in the aisle or between the doors. CCDC investigated these claims and alleged that it found it had staff members who also have the same problems. CCDC members alleged that they complained to RTD regarding these issues, but nothing happened as a result. The original five Plaintiffs filed their lawsuit on November 18, 2014. See Complaint [ECF #1]. As this case continued, a total of eighteen CCDC members who use wheelchairs or mobility devices came forward and alleged similar

complaints against RTD's light rail operations. See Amended Complaint [ECF #23], Second Amended Complaint [ECF #55] and Third Amended Complaint [ECF #65].

Plaintiffs alleged in these Complaints that these barriers to accessibility prevented individuals who use wheelchairs and mobility devices from access to LRVs and prevented them from having equal access to RTD's public transportation system.

2. The Litigation

Both Parties propounded and responded to extensive written discovery, took and defended a total of 18 depositions, and agreed to and conducted a two-day Rule 34 inspection of the two types of LRVs. Both Parties filed dispositive motions.

3. Negotiation and Settlement

The Parties discussed settlement on several occasions before reaching agreement. Both Parties attended a two-day mediation session, which was not ultimately successful, in the Fall of 2015. In early 2016, the Parties began the settlement discussions that would eventually lead to the Settlement Agreement. As the negotiations began to yield fruit, the Parties requested this Court continue proceedings to allow them to complete the drafting process. The Parties signed a Memorandum of Understanding in March, 2016, and have been finalizing settlement negotiations and documents since that time.

4. Summary of Settlement Agreement Terms

The following summarizes the Settlement Agreement's principal terms, although the exact terms and language in the Settlement Agreement control:

Plaintiffs and RTD have negotiated a comprehensive Settlement Agreement for injunctive relief, which requires RTD to make changes to its 172 existing LRVs, to make them more accessible to individuals who use wheelchairs and mobility devices within sixty (60) months from the Final Settlement Date of the Agreement, with several milestones during that period, retrofitting a certain number of LRVs each year until all are completed. See Exhibit 1, Settlement Agreement, at II.A. RTD will provide a status report to Class Counsel on the progress of the Retrofit Project regarding the number of LRVs retrofitted immediately and work expected to be completed in the next 12 months. *Id.* at II.A.4. Representatives of Plaintiffs and Class Counsel will have the opportunity to view retrofitted LRVs within 12 months from the Final Settlement Date to take measurements and photographs to assess compliance. *Id.*

With respect to new light rail vehicles, RTD will ensure that the next twenty-nine (29) LRVs that will be put into service after the Settlement Agreement will provide even greater accessibility than the retrofitted vehicles as set forth in Exhibit B to the Settlement Agreement. See *id.* at II.B. Again, representatives of Plaintiffs and Class Counsel will have an opportunity view the vehicles to ensure compliance. *Id.*

RTD will provide training and retraining to its light rail operators, supervisors of light rail operators, and light rail controllers, and a representative of CCDC will have an opportunity to review training materials. *Id.* at II.C.

The Parties have agreed to a Pre-Litigation Procedure, under which any further litigation against RTD involving the Named Plaintiffs and Class Members working with or at the behest of any Named Plaintiff involving accessibility issues must comply. *Id.* at

II.D. This procedure will require prior written notice that explains the nature of discrimination under the disability laws that the individuals involved believe violate those laws. The Pre-Litigation procedure requires a meet and confer session between the Parties to attempt to resolve the dispute. Only if this procedure fails may one of the above-referenced individuals bring a lawsuit against RTD. *Id.* Any person must bring litigation within 180 days of RTD's written response in accordance with this procedure. *Id.*

The Settlement Agreement calls for quarterly meetings between RTD and a representative of CCDC regarding light rail service to ensure cooperation and to promote a constructive dialogue concerning issues related to the ADA and light rail service. *Id.* at II.E. During these quarterly meetings, RTD will report on complaints received, the resolution of those complaints, and any changes to RTD policies and procedures as a result of those complaints from the previous quarter concerning light rail service. In addition, Class Counsel, on behalf of CCDC and the Civil Rights Education and Enforcement Center ("CREEC"),⁴ commit to raise any questions as to which they are considering litigation in one of these meetings or in writing at least thirty (30) calendar days prior to filing except as related to the issues discussed in Section II(D)(6). *Id.* at II(E)(3).

⁴ An attorney with CREEC assisted with the settlement process, and thus committed to provide such notice. CREEC is otherwise not party to the Settlement Agreement.

Subject to Court approval, RTD will pay Class Counsel \$375,000 in attorneys' fees and costs in certain installments over three years for the work performed by Class Counsel through Final Approval. *Id.* at VI.A.1.

The Settlement Agreement releases the injunctive claims and claims for actual or other damages of Class members, subject to this Court's approval of a Rule 23(b)(2) injunctive relief class and Rule 23(b)(3) opt-out damages class. *Id.* at III.A.2, XI. The Settlement Agreement provides that class members may opt-out of the damages release; it is for this reason that Plaintiffs seek certification pursuant to Rule 23(b)(3) as to that portion of the settlement.

The Settlement Agreement sets forth a Dispute Resolution process relating to the performance or interpretation of the provisions in Section II(A)-(C) of the Settlement Agreement. *Id.* at X. This process involves written notice of a dispute, a written response, and Class Counsel and RTD's Counsel meeting and conferring to attempt to resolve the dispute; if the Parties are unable to resolve their dispute, they agree to participate in at least one mediation session to be conducted, if possible, by Magistrate Judge Mix upon a motion under Local Rule 16.6(a). *Id.* at X.C.

The term of this Settlement Agreement shall be five (5) years from the Final Settlement Date, as defined in the Settlement Agreement, or the date on which all disputes raised pursuant to Section X of the Settlement Agreement are resolved, whichever is latest. *Id.* at XII.Q.

II. ARGUMENT

A. The Proposed Class Should Be Certified for Settlement Purposes Only.

1. Definition of the Proposed Class

The Representative Plaintiffs seek to certify the following class of pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3): “all Persons in Colorado who are qualified individuals with disabilities who use Wheelchairs, as that term is defined below, who have used, currently use, or may in the future use RTD’s Light Rail Service.” *Id.* at II.18. The definition of “Wheelchair” in the Settlement Agreement is:

Wheelchair. “Wheelchair” shall have the meaning assigned to it in 49 C.F.R. § 37.3 and shall include all devices used by individuals with mobility impairments specifically to assist with ambulation, by way of example but not limitation, **manual and motorized wheelchairs, scooters, and walkers**, so long as such devices fit within the definition of Wheelchair provided in 49 C.F.R. § 37.3.

Id. at II.19 (emphasis in original).

2. Legal Standard for Class Certification

Class certification is appropriate when the class satisfies the four requirements of Rule 23(a) and one of the requirements of Rule 23(b). Here, Plaintiffs seek certification, for settlement purposes, under Rule 23(b)(2) and 23(b)(3).

3. The Proposed Class Meets the Requirements of Rule 23.

Although RTD does not oppose Plaintiffs’ Motion, this Court must still determine that the proposed class meets all of the requirements of Fed. R. Civ. P. 23(a) and at least one of the provisions of Rule 23(b). Fed. R. Civ. P. 23(a) provides:

- (1) [T]he class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;
- (3) the claims

or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

See *J.B. ex rel. Hart v. Valdez*, 186 F.3d 1280, 1288 (10th Cir. 1999). Plaintiffs seek certification under Fed. R. Civ. P. 23(b)(2), alleging that Defendant “has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.” Fed. R. Civ. P. 23(b)(2); *J.B. ex rel. Hart*, 186 F.3d at 1288. With respect to the damages release, Plaintiffs seek certification pursuant to Rule 23(b)(3).

These rules reflect the fact that “a district court has both the duty and the broad authority to exercise control over a class action and to enter appropriate orders governing the conduct of counsel and parties.” *Stransky v. HealthONE of Denver, Inc.*, 929 F. Supp. 2d 1100, 1104 (D. Colo. 2013) (quoting *Gulf Oil Co. v. Bernard*, 452 U.S. 89, 100-01 (1981)). In *Gulf Oil*, the Supreme Court recognized that “[c]lass actions serve an important function in our system of civil justice[.]” *Gulf Oil Co.*, 452 U.S. at 99. District Courts should favor the procedure of class actions. *Colorado Cross-Disability Coal. v. Taco Bell Corp.*, 184 F.R.D. 354, 356 (D. Colo. Feb. 3, 1999) (citing *Esplin v. Hirschi*, 402 F.2d 94, 99 & 101 (10th Cir. 1968), *cert. denied*, 394 U.S. 928 (1969)).

a. The Class is So Numerous That Joinder of All Class Members is Impracticable.

Rule 23(a)(1) requires a showing that “[t]he class is so numerous that joinder of all members is impracticable.” Plaintiffs are seventeen (17) individuals who meet the class definition; there are many more individuals who meet that definition and ride RTD LRVs on a daily basis who cannot be identified easily.

In class action suits there must be presented some evidence of established, ascertainable numbers constituting the class in order to satisfy even the most liberal interpretation of the numerosity requirement. There is, however, no set formula to determine if the class is so numerous that it should be so certified. The determination is to be made in the particular circumstances of the case. The duty of establishing those particular circumstances rests with the party who asserts the existence of the class and that party must produce some evidence or otherwise establish by reasonable estimate the number of class members who may be involved.

Moore's Federal Practice, 2nd Ed., V. 3B, s 23.05(3), and cases cited. *Rex v. Owens ex rel. State of Okl.*, 585 F.2d 432, 436 (10th Cir. 1978). "Class actions have been deemed viable in instances where as few as 17 to 20 persons are identified as the class." *Rex*, 585 F.2d at 436 (internal citations omitted).

Here, U.S. Census data indicates that currently 5.4% of the population in Colorado are individuals with ambulatory disabilities.⁵ Given that RTD reported 103,377,797 boardings from December 2014 to November 2015,⁶ it is reasonable to conclude that the class of individuals who use Wheelchairs who use Light Rail is too numerous to join in a single suit. "[C]ourts regularly rely on the . . . [census] data presented by plaintiffs in making numerosity determinations." *Californians for Disability Rights, Inc. v. California Dep't of Transp.*, 249 F.R.D. 334, 347 (N.D. Cal. 2008); *Colorado Cross Disability Coal. v. Abercrombie & Fitch Co.*, 765 F.3d 1205, 1215 (10th Cir. 2014) (relying on reasonable inferences from census data); *Colorado Cross-*

⁵ 2014 Disability Status Report Colorado, Yang-Tan Institute on Employment and Disability at the Cornell University ILR School (citing to US Census Bureau's American Community Survey), http://www.disabilitystatistics.org/StatusReports/2014-PDF/2014-StatusReport_CO.pdf (last visited Nov. 14, 2016).

⁶ Facts and Figures, RTD, <http://www.rtd-denver.com/factsAndFigures.shtml> (last visited Nov. 14, 2016).

Disability Coal. v. Taco Bell Corp., 184 F.R.D. 354, 358 (D. Colo. 1999) (“Census data are frequently relied on by courts in determining the size of proposed classes.”).

b. There are Questions of Law or Fact Common to the Class And the Claims of the Representative Plaintiffs are Typical of the Claims of the Class.

The requirements of commonality and typicality “tend to merge” and are often addressed together. *Colorado Cross Disability Coal. v. Abercrombie & Fitch Co.*, 765 F.3d 1205, at 1216 (citing *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 n.5 (2011)). Here, there are numerous questions of law or fact common to the class:

- Whether the access to and usability of the accessible seating areas of the existing LRVs meets the requirements of the ADA and Section 504;
- Whether the access to the planned new LRVs will meet the requirements of the ADA and Section 504; and
- Whether RTD policy regarding ensuring access for class members to the accessible seating areas complies with the ADA and Section 504.

These questions and others form the questions of law or fact that are common to the class in this case.

“A finding of commonality requires only a single question of law or fact common to the entire class.” *DG ex rel. Stricklin v. Devaughn*, 594 F.3d 1188, 1195 (10th Cir. 2010). “[E]very member of the class need not be in a situation identical to that of the named plaintiff” to meet Rule 23(a)'s commonality or typicality requirements. Factual differences between class members’ claims do not defeat certification where common

questions of law exist.” *Id.* (quoting *Milonas v. Williams*, 691 F.2d 931, 938 (10th Cir.1982)).

Ultimately, the common questions “must be of such a nature that [they are] capable of classwide resolution.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). The Settlement Agreement in this case has amply demonstrated that the putative class meets this standard.

c. Representative Plaintiffs and Class Counsel Will Fairly and Adequately Protect the Interest of the Proposed Class.

Rule 23(a)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). “The adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625 (1997). Courts generally examine the experience of class counsel and whether there are any conflicts between class counsel and representative plaintiffs. *See, e.g., In re Crocs, Inc. Sec. Litig.*, 306 F.R.D. 672, 688 (D. Colo. 2014). In this case, Class Counsel are experienced in the field of disability rights litigation and have litigated and worked on class actions in the past, including those with monitoring provisions and the type of dispute at issue here. Declaration of Kevin W. Williams (“Williams Decl.”), attached as **Exhibit 2**, at 2 ¶¶ 4,5; Declaration of Andrew C. Montoya (“Montoya Decl.”), attached as **Exhibit 3**, at 2-3 ¶ 3. With regard to conflicts, Class Counsel are attorneys for a non-profit organization that has as its mission advocating for social justice for people with all types of disabilities. Williams Decl. at 2 ¶¶ 4, 6. CCDC is a Plaintiff in the case, but not a Representative Plaintiff for purposes of the class settlement. Class Counsel in this case

have worked for many years as counsel following that mission without any conflicts of any kind. Williams Decl. at 2 ¶¶ 4, 7; Montoya Decl. at 2 ¶¶ 5, 7. Adequate representation is usually presumed in the absence of contrary evidence. 216 Robert Newberg, *Newberg on Class Actions*, § 7.24 at 7–80 to –81 (3d ed. 1992); see also *Californians for Disability Rights, Inc. v. California Dep't of Transp.*, 249 F.R.D. 334, at 349 (N.D. Cal. 2008) (citations omitted).

The Representative Plaintiffs in this case have common interests with members of the putative class. Representative Plaintiffs are long-time Denver residents who use wheelchairs or other mobility aids. The Representative Plaintiffs are all users of RTD's light rail service on a regular basis; many use public transportation as their only means of getting around the city. They are all members of the proposed class, and they seek a common remedy, which will be provided through the actions required of RTD in the Settlement Agreement in this case. The Representative Plaintiffs seek to ensure increased accessibility to the accessible spaces on the existing light rail trains and, under this Settlement Agreement, those that will soon be put into service. These interests are all shared with the putative class and consistent with remedying the violations that this class action seeks to address.

Furthermore, the Representative Plaintiffs will vigorously prosecute the interests of the class through qualified counsel. Proposed Class Counsel Kevin Williams and Andrew Montoya of CCDC have successfully represented numerous plaintiffs in class actions of individuals with disabilities in state and federal court and across the country, having been found by the relevant courts to meet adequate representation requirements

under Rule 23. Williams Decl. at 2 ¶ 5; Montoya Decl. at 2 ¶ 5. Class counsel are thoroughly familiar with the ADA and the issues concerning the protection of the rights of people with disabilities. They have thoroughly investigated this case, measuring all relevant aspects of the trains at issue, reviewing hundreds of pages of documents, and taking and defending numerous depositions. Class Counsel also have the resources to litigate this case, as demonstrated by the settlement achieved in this case, which provides substantial and important injunctive relief to the class and by all of the other class action cases in which counsel have been involved.

Thus, Plaintiffs have met the adequacy requirement of Rule 23(a)(4).

d. It is Appropriate to Certify the Class Under Rule 23(b)(2).

A class is proper under Rule 23(b)(2) if “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). “Civil rights cases against parties charged with unlawful, class-based discrimination are prime examples” of appropriate Rule 23(b)(2) class actions. *Amchem Prods.*, 521 U.S. at 614 (1997) (citations omitted). The requirements of Rule 23(b)(2) are “almost automatically satisfied in actions primarily seeking injunctive relief.” *Kanter v. Casey*, 43 F.3d 48, at 58 (3d Cir. 1994). Accordingly, numerous courts have certified classes consisting of individuals with mobility disabilities seeking removal of barriers or because policies of the defendant were found to apply to a class of individuals with disabilities. See, e.g., *Colorado Cross-Disability Coal.*, 765 F.3d at 1217 (barriers to wheelchair accessibility); *Colorado Cross-Disability Coal.*, 184 F.R.D. at 360

(D. Colo. 1999) (same); *Lightbourn v. Cty. of El Paso, Tex.*, 118 F.3d 421 (5th Cir. 1997) (mobility impaired and visually impaired voters brought class action, alleging Texas voting machines did not provide accessibility or privacy); *Bates v. United Parcel Serv., Inc.*, 511 F.3d 974, 988 (9th Cir. 2007) (policies barring deaf drivers from working for UPS); *Armstrong v. Davis*, 275 F.3d 849, 864-872 (9th Cir. 2001) (policies that discriminate against disabled prisoners and parolees).

The claims brought in this case are within the type of claims that Rule 23(b)(2) was intended to cover. Here, Plaintiffs seek broad declaratory and injunctive relief – system-wide improvements in RTD’s accessibility to its LRVs and policy changes with respect to the operators – on behalf of a large and amorphous class of all Denver residents and visitors who use wheelchairs or other mobility devices who are being denied meaningful access to RTD’s LRVs based on alleged policy and design violations. Additionally, the proposed Rule 23(b)(2) class seeks only class-wide declaratory and injunctive relief to address the alleged deficiencies and does not seek class damages. Therefore, certification of the proposed class under Rule 23(b)(2) is proper.

e. An Opt-Out Class Should be Approved for Settlement Purposes under Rule 23(b)(3) Regarding the Release of Potential Damages Claims.

While Plaintiffs’ lawsuit did not seek damages, the Parties agreed in settlement, that it was reasonable for the class to release damages remedies provided that individual class members could opt-out of that release if they wished to preserve their damages claims under the ADA or Section 504. See Settlement Agreement ¶ V(A)(1).

“Under Rule 23(b)(3) . . . the Court may certify a class if the questions of law or fact common to the class predominate over any questions affecting only individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.” *Nakkhumpun v. Taylor*, No. 12-CV-01038-CMA-CBS, 2015 WL 6689399, at *3 (D. Colo. Nov. 3, 2015). “The predominance inquiry ‘focuses on the question of liability. . . . [I]f the liability issue is common to the class, common questions are held to predominate over individual questions.’ The purpose is to avoid a class action degenerating into a series of individual trials.” *Id.* (quoting *Maez v. Springs Auto. Grp. LLC*, 268 F.R.D. 391, 397 (D. Colo. 2010)).

Here, the key liability issue is common to the class: do the dimensions of LRV cars comply with Title II of the ADA and Section 504. This question predominates over any individual liability questions class members may have.

Certification of a class here is superior to other methods of adjudication as the case raises a single liability question and -- in the proposed Settlement Agreement -- implements a single, class-wide injunctive solution. Class members who wish to pursue damages claims will, pursuant to Rule 23(b)(3), be able to opt-out of the damages release and pursue those claims individually.

B. The Class Settlement Should Be Preliminarily Approved.

The purpose of the preliminary approval stage is to ascertain whether there is a reason to notify the class members of the proposed settlement and proceed with the fairness hearing. *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006) (citing *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982)).

“If the preliminary evaluation of the proposed settlement does not disclose grounds to doubt its fairness or other obvious deficiencies . . . and appears to fall within the range of possible approval, the court should direct that notice under Rule 23(e) be given to the class members of a formal fairness hearing” Manual for Complex Litigation, § 30.41, at 236–37 (3d ed.1995). The Settlement Agreement in this case easily satisfies this standard.

The terms of the Settlement Agreement are summarized in the Background section above. Under Fed. R. Civ. P. 23(e), “[t]he claims, issues, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court's approval.” Here, the proposed Settlement Agreement satisfies the standard for preliminary approval.

Under F.R.C.P. 23(e)(2),⁷ a class action settlement must be “fair, reasonable and adequate.” *Lucas*, 234 F.R.D. at 693 . “Under F.R.C.P. 23[(e)(2)], the trial court must determine whether the settlement is fundamentally fair, adequate, and reasonable.” In the Tenth Circuit, the following factors are to be analyzed in determining whether this standard is met:

- (1) whether the proposed settlement was fairly and honestly negotiated;
- (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt;
- (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and
- (4) the judgment of the parties that the settlement is fair and reasonable.

Lucas, 234 F.R.D. at 693 (citing *Rutter & Wilbanks Corp. v. Shell Oil Co*, 314 F.3d 1180, 1188 (10th Cir. 2002)). This settlement meets all of these requirements.

⁷ Formerly Fed. R. Civ. P. 23(e)(1)(C).

1. The Settlement Agreement was Fairly and Honestly Negotiated.

This case has been litigated over the course of a year and a half, during which time both Parties engaged in extensive written and deposition discovery, and filed a number of contested discovery and dispositive motions. *See Lucas*, 234 F.R.D. at 693. The settlement agreement itself took months to negotiate, and came only after several previous attempts at negotiating -- including a failed mediation. There have been multiple meetings, emails and telephone calls, and both sides have been represented by multiple counsel with expertise in the ADA and complex class action litigation. Both Parties gave up aspects of what they would have attempted to achieve through a trial. In addition, the Parties negotiated at arm's-length regarding whether the LRVs needed to be accessible according to Plaintiffs' allegations now or in the future. The Parties also negotiated terms of the Settlement Agreement in exchange for significant relief in redesigning and retrofitting the LRVs -- namely, provisions that require notice and meeting and conferring prior to bringing any further accessibility lawsuits against RTD.

The monetary terms are fair and adequate. Representative Plaintiffs are not receiving any incentive payments for representing the class. While class members are releasing claims for damages under the ADA and Section 504, the Parties have agreed -- and Plaintiffs request above -- that the class be certified pursuant to Rule 23(b)(3) for purposes of that release, so class members with damages claims can opt-out and bring those claims individually.

The Parties reached full agreement on injunctive terms before undertaking negotiations addressing Plaintiffs' attorneys' fees and costs.

Class Counsel's fees -- which will be the subject of a separate fee petition -- are also fair and adequate for the year and a half of extensive litigation leading up to this Settlement Agreement. Importantly, Class Counsel's fees do not distract or diminish the extensive injunctive relief afforded to the Class. "The fact that the parties . . . did not discuss attorneys' fees until all other issues were virtually finalized, is also indicative of a fair and arm's-length process." *Lucas*, 234 F.R.D. at 693. See, e.g., Manual for Complex Litig., Fourth § 21.7 at 335 (2004) ("Separate negotiation of the class settlement before an agreement on fees is generally preferable."). Finally, the Parties have entered into this proposed settlement because they "believe that the settlement is fair and adequate." *Tuten v. United Airlines, Inc.*, No. 12-CV-1561-WJM-MEH, 2013 WL 8480458, at *3 (D. Colo. Oct. 31, 2013). Because these facts establish that the Settlement Agreement is fundamentally fair, adequate, and reasonable, preliminary approval should be granted.

2. Serious Questions of Fact and Law Were in Doubt.

Serious questions of fact and law were in doubt: Were the existing designs of LRVs in compliance? Were operators asking required questions of those seated in accessibility seating areas when those who needed them boarded? Were changes required to the accessible areas of future LRVs? Was appropriate signage placed in appropriate areas? These are all serious questions of fact and law -- several of which were the subject of pending dispositive motions -- that remained in doubt if this case were to have continued to trial.

3. The Value of an Immediate Recovery Outweighs the Mere Possibility of Future Relief After Protracted Litigation.

The Parties vigorously disagreed on the question whether the LRVs were in compliance with the regulations. Dispositive motions on these questions were pending, but no trial date was in place. However the contested questions were resolved on motion or at trial, they were likely to be appealed, adding cost and time to the existing litigation.

In contrast, the Settlement Agreement will ensure that more accessible LRVs will be in service within a year of Final Settlement Date and that all LRVs will be improved within five years. The Settlement Agreement will ensure more accessible LRVs far sooner than continued litigation and appeal.

4. In the Judgment of the Parties, the Settlement is Fair and Reasonable.

The settlement is fair and reasonable. Williams Decl. at 2 ¶ 8. The settlement “was negotiated by competent counsel during arms-length negotiations,” and serious questions of law exist as to RTD’s compliance with important civil rights laws. *Tuten*, 2013 WL 8480458, at *3 (D. Colo. Oct. 31, 2013). “As with any class action, litigation in this case would likely be expensive and time consuming.” *Id.* The Parties to this litigation have “vigorously advocated their respective positions throughout the pendency of the case.” *Wilkerson v. Martin Marietta Corp.*, 171 F.R.D. 273, 284 (D. Colo. 1997). “Because the settlement resulted from arm’s-length negotiations between experienced counsel after significant discovery had occurred, the Court may presume the settlement to be fair, adequate, and reasonable.” *Lucas*, 234 F.R.D. at 693; see also, e.g., *Wal-*

Mart Stores, Inc. v. Visa U.S.A., Inc., 396 F.3d 96, 116 (2d Cir.) (A “presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.” (quoting Manual for Complex Litigation, Third § 30.42 (1995))).

As evidenced by the fully executed Settlement Agreement, approved by both Parties and their counsel, the judgment of the Parties is that the settlement is fair and reasonable. “Counsel’s judgment as to the fairness of the agreement is entitled to considerable weight.” *Marcus v. Kansas Dept. of Revenue*, 209 F.Supp.2d 1179, 1183 (D. Kan. 2002). Here, the Parties’ counsel -- among whom are attorneys with substantial experience in complex class action litigation and disability class actions -- unanimously support this settlement. *Lucas*, at 695.

C. The Class Notice, Objection, and Exclusion Procedures Should Be Approved.

As part of the settlement of a class action, this Court “must direct notice in a reasonable manner to all class members who would be bound by the proposal.” Rule 23(e)(1). Because Plaintiffs are requesting certification pursuant to Rule 23(b)(3), such notice must be “the best notice that is practicable under the circumstances.” Rule 23(c)(2)(B).

The Class Notice Procedures, as defined by the Settlement Agreement, are reasonable and fairly calculated to alert class members of the settlement and inform them of their rights as required by Fed. R. Civ. P. 23 and the Due Process clause of the United States and Colorado Constitutions.

The Settlement Agreement provides for posted notice, website notice, and mailed notice:

- RTD shall post notice, in a form substantially similar to Exhibit D to the Settlement Agreement, (1) on all mini-high ramps at each station providing Light Rail Service in a location easily visible to passengers; (2) at RTD ticket sales outlets at Denver Union Station, Civic Center, two locations in Boulder, and if these sales outlets are temporarily closed, at the temporary replacement ticket outlet for that location; (3) the Special Discount Card location at 1600 Blake Street (“Posted Notice”). The Posted Notice shall be displayed for no less than thirty (30) consecutive calendar days. RTD shall bear the costs associated with Posted Notice.
- There shall be appropriate website notice. RTD, CCDC, and CREEC shall post notice, in a form substantially similar to the Posted Notice on their respective websites (“Website Notice”). The Website Notice shall remain posted for no less than thirty (30) consecutive calendar days. RTD will establish a link to the page on which the Website Notice appears on its Light Rail Service website page (www.rtd-denver.com/lightrail.shtml) as well as its Accessibility website page (www.rtd-denver.com/Accessibility.shtml). CCDC and CREEC will each put a link to the page on which the Website Notice appears on their respective main pages (www.ccdconline.org and www.creeclaw.org). RTD, CCDC, and CREEC shall bear the costs, if any, associated with Website Notice on their respective websites.
- RTD shall send via U.S. Mail notice, in a form substantially similar to Exhibit E to the Settlement Agreement (“Mailed Notice”), to no more than ten (10) Colorado disability rights organizations listed in Exhibit F to the Settlement Agreement. As reflected in Exhibit E, the Mailed Notice shall include a request that such notice be posted on the organization’s bulletin boards for at least thirty (30) business days. RTD shall bear the costs associated with Mailed Notice to the addresses, as provided on Exhibit F. CCDC and CREEC shall e-mail notice, in a form substantially similar to the Mailed Notice, to their members (“E-mailed Notice”). CCDC and CREEC shall bear the costs, if any, associated with E-mailed Notice.

Within ten days of the filing of this Motion , RTD will serve on the Attorney General of the United States and the Attorney General of Colorado the documents listed in 28 U.S.C. § 1715(b) of the Class Action Fairness Act (“CAFA Notice”). The Parties

agree that, for purposes of CAFA Notice, it is not feasible to provide the names of all Settlement Class Members pursuant to 28 U.S.C. § 1715(b)(7)(A) and, therefore, the procedure set forth in 28 U.S.C. § 1715(b)(7)(B) will be utilized.

“If the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). The Parties believe notice in this case comports with fairness and due process. The Class Notice Procedures detailed above and fully defined in Section IV of the Settlement Agreement summarize the proposed settlement, and explain to class members their right to exclude themselves from the damages release portion of the settlement, or object to the settlement and be heard in open court.

D. The Parties Hereby Notify the Court of a Confidential Opt-Out Agreement.

Rule 23(e)(3) requires the Parties to “file a statement identifying any agreement made in connection with” the proposed settlement. As set forth in Paragraph V(B) of the Settlement Agreement, the Parties have entered a confidential opt-out agreement that “specif[ies] that if timely requests for exclusion are received from a specified number or percentage of Rule 23(b)(3) Settlement Class Members, Defendant shall have the right, in its sole discretion, to proceed with a Rule 23(b)(2) settlement class only.” Settlement Agreement ¶ V(B)(1). This confidential opt-out agreement “will not provide a basis for Defendant to terminate the Rule 23(b)(2) class settlement.” *Id.* ¶ V(B)(2). It is being filed under separate cover with a motion to restrict public access.

III. CONCLUSION

WHEREFORE, for the reasons set forth in this Motion and the attached proposed Settlement Agreement, the Representative Plaintiffs respectfully request that the Court grant this Motion, enter the proposed Preliminary Approval Order attached as Exhibit A to the Settlement Agreement, and grant such further relief as the Court deems just and proper under the circumstances.

/s/ Kevin W. Williams

Kevin W. Williams

Legal Program Director

Andrew C. Montoya

Legal Program Attorney

Empire Park

1380 S, Colorado Boulevard, Suite 610-A

Denver, Colorado 80222

kwilliams@ccdconline.org

amontoya@ccdconline.org

(720) 336-3584

(720) 336-1036

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will provide electronic service to the following:

Michael D. Plachy
mplachy@lrrc.com

Jessica L. Fuller
jfuller@lrrc.com

Jenifer Ross-Amato
Jenifer.ross@rtd-denver.com

Mindy Marie Swaney
mindy.swaney@rtd-denver.com

/s/ Kevin W. Williams
Kevin W. Williams
Colorado Cross-Disability Coalition
Legal Program Director

Exhibit 1

CLASS SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between Plaintiffs Julie Reiskin, Jon Jaime Lewis, William Joe Beaver, Douglas Howey, Diana Milne, Tina McDonald, José Torres-Vega, Randy Kilbourn, John Babcock, Kimberley Jackson, Paulina Black, Ruthie McNair, Vrlina Nozliç, Chris Quinlan, Cheryl Quinlan, Elaine Culpepper, Kevin Grimsinger, and the Colorado Cross-Disability Coalition (“CCDC”) (collectively, “Plaintiffs”), on behalf of themselves and for others similarly situated, and Defendant Regional Transportation District (“RTD” or “Defendant”) (collectively, “the Parties”) as follows:

RECITALS

WHEREAS, Plaintiffs, individually and on behalf of a class of similarly situated persons, filed the lawsuit of *Reiskin et al. v. Regional Transportation District* on November 18, 2014 in the United States District Court for the District of Colorado, Case No. 14-cv-03111-CMA-KLM (“Litigation”). The Litigation involves claims and defenses relating to Defendant’s compliance with Title II of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12131 *et seq.* (“ADA”), and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 (“Section 504”), with regard to its light rail operations;

WHEREAS, Defendant has denied and continues to deny any and all liability or wrongdoing to Plaintiffs and the Settlement Class; by entering into this Agreement, Defendant does not admit any impropriety, wrongdoing or liability of any kind whatsoever, including any as to the claims raised in the Litigation, and on the contrary, expressly denies the same. Defendant has entered into this Agreement solely for the purpose of avoiding the expense, inconvenience, distraction and delay of the Litigation, without admitting any wrongdoing or liability whatsoever,

and without conceding Plaintiffs' ability to certify the alleged putative Settlement Class on its merits under Fed. R. Civ. P. 23;

WHEREAS, the Parties have conducted a thorough examination and investigation of the facts and law relating to the matters set forth in the Litigation, including ample written discovery and numerous depositions;

WHEREAS, the Parties, through their respective legal counsel, have engaged in extensive, arms-length negotiations;

WHEREAS, based upon extensive analysis of the facts and the law applicable to the claims and defenses in the Litigation, and taking into account the substantial benefits available to Plaintiffs and the Settlement Class under the terms of this Settlement Agreement and the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, Class Counsel has concluded that this Settlement Agreement provides substantial benefit to the Settlement Class and is fair, reasonable, and adequate and in the best interest of the Plaintiffs and the Settlement Class;

WHEREAS, Plaintiffs have sought only injunctive relief and have not sought damages of any kind, compensatory or punitive, in this case;

WHEREAS, Defendant, although denying fault and liability, has likewise concluded that this Settlement Agreement is desirable to avoid the time, risk, and expense of defending protracted litigation, to fulfill its long-standing commitment to promoting and enhancing the rights of those with disabilities and to ensure compliance with all laws protecting the rights of the disabled, and to resolve completely and finally the pending and potential claims of the Plaintiffs and the Settlement Class; and

WHEREAS, the Parties, therefore, desire to settle the claims asserted in the Litigation and to enter into this class settlement agreement related to the Litigation and the claims giving rise thereto, in accordance with the provisions and upon the terms and conditions hereafter set forth.

AGREEMENT

I. DEFINITIONS

In addition to certain terms that may be defined elsewhere in this Settlement Agreement, the following defined terms are used herein:

1. **Agreement or Settlement Agreement.** “Agreement” or “Settlement Agreement” shall mean this Settlement Agreement, including all exhibits hereto, which are an integral part of the Settlement Agreement and are incorporated herein in their entirety by reference.

2. **Class Counsel.** “Class Counsel” shall mean:

Kevin W. Williams, Esq.
Colorado Cross-Disability Coalition
1385 South Colorado Boulevard, Suite 610-A
Denver, CO 80222
720-336-3584

Andrew C. Montoya, Esq.
Colorado Cross-Disability Coalition
1385 South Colorado Boulevard, Suite 610-A
Denver, CO 80222
720-336-1036

3. **Class Member.** “Class Member” shall mean a member of the Settlement Class, as defined herein.

4. **Class Notice and Notice Procedures.** “Class Notice and Notice Procedures” shall mean the notice and procedures to be approved by the Court, as more fully described in Section IV below.

5. **Court.** The “Court” shall mean the United States District Court for the District of Colorado in Case No. 14-cv-03111-CMA-KLM.

6. **Final Order and Judgment.** “Final Order and Judgment” shall mean the order of the Court approving this Settlement Agreement, and the corresponding final judgment, a mutually agreeable form of which will be submitted by the parties prior to final approval.

7. **Final Settlement Date.** “Final Settlement Date” is the date upon which the Court’s Final Order and Judgment becomes “final,” which shall be as follows:

(a) If no appeal is taken therefrom, the first day after the date on which the time to appeal therefrom expires;

(b) If an appeal is taken therefrom, the first day after the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc, petitions for review, and petitions for certiorari or any other form of review, have been finally disposed of in a manner resulting in an affirmance of the Final Judgment and Order; or

(c) On a date after the signing and entry of the Final Judgment and Order that counsel for the Parties agree to in writing.

8. **Light Rail Service.** “Light Rail Service” shall mean all corridors of the RTD electric railway along a right-of-way at ground level, on aerial structures, or in streets using light rail vehicles, including without limitation vehicles, seating configuration on the vehicles, track, operators, station platforms, and mini-high ramps and transit service provided to passengers. Light Rail Service shall specifically not include commuter rail service.

9. **Litigation.** “Litigation” shall mean the lawsuit styled *Reiskin et al. v. Regional Transportation District* in the United States District Court for the District of Colorado, Case No. 14-cv-03111-CMA-KLM.

10. **Representative Plaintiffs.** “Representative Plaintiffs” shall mean Julie Reiskin, Douglas Howey, Tina McDonald, Randy Kilbourn, and William Joe Beaver, individually and as representatives of the Settlement Class

11. **Person(s).** “Person(s)” shall mean any natural person or individual.

12. **Plaintiffs.** “Plaintiffs” shall mean Julie Reiskin, Jon Jaime Lewis, William Joe Beaver, Douglas Howey, Diana Milne, Tina McDonald, José Torres-Vega, Randy Kilbourn, John Babcock, Kimberley Jackson, Paulina Black, Ruthie McNair, Vrlina Nozliç, Chris Quinlan, Cheryl Quinlan, Elaine Culpepper, Kevin Grimsinger, and the Colorado Cross-Disability Coalition (“CCDC”).

13. **Preliminary Approval Order.** “Preliminary Approval Order” shall have the meaning set forth in Section III(B) below, and it shall be substantially in the form and substance of **Exhibit A** hereto.

14. **Release or Released Claims.** The “Release” and “Released Claims” shall have the meaning set forth in Section XI below.

15. **RTD.** “RTD” shall mean Regional Transportation District. For purposes of the Release in Section XI below, references to RTD shall include its past, present, or future officers, directors, employees, agents, attorneys, brokers, representatives, regional directors, field marketing directors, producers, or shareholders of RTD; and any successors, assigns, or persons acting on behalf of any of the foregoing.

16. **RTD Counsel.** “RTD Counsel” shall mean:

Jenifer M. Ross-Amato, Esq.
Mindy Swaney, Esq.
Regional Transportation District
1600 Blake Street
Denver, CO 80202
(303) 299-2479

Michael D. Plachy, Esq.
Jessica L. Fuller, Esq.
Lewis Roca Rothgerber Christie LLP
One Tabor Center, Suite 3000
1200 Seventeenth Street
Denver, CO 80202
(303) 623-9000

17. **Settlement.** “Settlement” shall mean the terms and conditions of settlement set forth in this Agreement and the attached exhibits.

18. **Settlement Class, Class, and Settlement Class Members.** “Settlement Class” or “Class” or “Settlement Class Member(s)” shall mean all Persons in Colorado who are qualified individuals with disabilities who use Wheelchairs, as that term is defined below, who have used, currently use, or may in the future use RTD’s Light Rail Service. The Settlement Class shall not include any Persons who timely elect to exclude themselves from this Settlement.

19. **Wheelchair.** “Wheelchair” shall have the meaning assigned to it in 49 C.F.R. § 37.3 and shall include all devices used by individuals with mobility impairments specifically to assist with ambulation, by way of example but not limitation, **manual and motorized wheelchairs, scooters, and walkers**, so long as such devices fit within the definition of Wheelchair provided in 49 C.F.R. § 37.3.

II. BENEFITS TO THE SETTLEMENT CLASS

A. Retrofit of Existing Light Rail Vehicles.

1. RTD agrees to retrofit its existing 172 light rail vehicles (“LRVs”) in a manner substantially in accordance with **Exhibit B** attached hereto (“Retrofit Project”).

2. The Retrofit Project will be completed no later than sixty (60) months from the Final Settlement Date; provided, however, that RTD will complete the following milestones during that sixty-month period:

(a) RTD shall retrofit a minimum of 17 LRVs within one (1) year of the Final Settlement Date;

(b) RTD shall retrofit a cumulative total of 39 LRVs within two (2) years of the Final Settlement Date;

(c) RTD shall retrofit a cumulative total of 74 LRVs within three (3) years of the Final Settlement Date;

(d) RTD shall retrofit a cumulative total of 119 LRVs within four (4) years of the Final Settlement Date; and

(e) RTD shall retrofit a cumulative total of 172 LRVs within five (5) years of the Final Settlement Date.

3. If RTD is unable to comply with the provisions in Section II(A)(2) as a result of a “force majeure event,” any such non-compliance will not constitute a breach or violation of this Settlement Agreement. For purposes of this provision, a force majeure event shall mean an event beyond the control of RTD, which prevents RTD from compliance with the schedule above, including, but not limited to: (1) an act of God (fires, explosions, earthquakes, floods, etc.); (2) other exceptionally adverse weather events or conditions; (3) a riot, strike, lock out, work stoppage, labor dispute, or other civil disturbance, whether lawful or not; (4) discontinuation of electricity supply or other necessary utilities; (5) an act or threatened act of terrorism; or (6) a substantial loss of supply of critical parts. In case of such a force majeure event, RTD will inform Class Counsel within one week of the event, describing the event, stating the additional time the event will add to one or more of the deadlines in Section II(A)(2), and providing supporting documentation.

4. Every twelve (12) months from the Final Settlement Date and until completion of the Retrofit Project, RTD will provide a status report to Class Counsel on the progress of the Retrofit Project regarding the number of LRVs retrofitted to date and work expected to be completed in the next twelve months.

5. Two Representative Plaintiffs, one Class Counsel, and one Paralegal will have the opportunity to view one (1) retrofitted LRV pursuant to the Retrofit Project within twelve (12) months from the Final Settlement Date and take measurements and photographs to assess whether the retrofitted LRV complies with Section II(A)(1). The retrofitted LRV will be made available for no more than two (2) hours on a mutually agreeable date, at a station location and time of day that RTD in its sole discretion selects.

B. New Light Rail Vehicles.

1. The next twenty-nine (29) new LRVs that RTD adds to its Light Rail Service (“New LRV”) will be substantially similar in design to the vehicle depicted in **Exhibit C** attached hereto.

2. In these New LRVs, the flooring within the designated spaces for passengers using mobility devices will depict the International Symbol of Accessibility.

3. Prior to the delivery of the first of these New LRVs, RTD will facilitate a public meeting to present a video produced by the LRV manufacturer demonstrating the accessibility features of the New LRVs and answer any questions about those features.

4. Two Representative Plaintiffs, one Class Counsel, and one paralegal will have the opportunity to view one (1) New LRV within ninety (90) calendar days of the date the first New LRV is placed into revenue service and take measurements and photographs to assess whether the New LRV complies with Section II(B)(1). The New LRV will be made available

for no more than two (2) hours on a mutually agreeable date, at a station location and time of day that RTD in its sole discretion selects.

C. Policy and Training Concerning Operator Conduct.

1. RTD shall have a policy directing that operators providing Light Rail Service shall not discriminate against riders who use Wheelchairs in violation of the ADA or Section 504, specifically, and without limitation, in compliance with 49 C.F.R. § 37.169(j) and shall include such policy in its training of all such operators.

2. RTD shall provide mandatory refresher training on the Americans with Disabilities Act (“ADA”) on an annual basis to its light rail operators, supervisors of light rail operators, and light rail controllers so as to ensure operators providing Light Rail Service are aware of their obligation not to discriminate against riders who use Wheelchairs (“Refresher Training”).

3. If newly employed, these employees will receive this training as part of their initial training and will then be exempt from Refresher Training during their first year of employment.

4. RTD will provide a copy of the materials for the Refresher Training to Plaintiffs Julie Reiskin, Jon Jaime Lewis, or a staff member designee of Colorado Cross-Disability Coalition who reports to Ms. Reiskin or Mr. Lewis, within thirty (30) calendar days of the Final Settlement Date.

5. Ms. Reiskin, Mr. Lewis or their designee, on behalf of the Class, will have thirty (30) calendar days to provide suggested comments on the Refresher Training materials.

6. Nothing in this Section II(C) shall limit RTD’s ability to seek input from other third parties and organizations regarding the Refresher Training materials.

7. RTD, in its sole discretion, shall make the final determination as to the content of the Refresher Training materials and any future revisions, additions, or updates thereto.

8. If at any time during the Term of this Agreement, RTD materially modifies its policies or training so that they no longer satisfy Section II(C)(1), RTD shall so notify Plaintiffs Julie Reiskin, Jon Jaime Lewis, or a staff member designee of CCDC who reports to Ms. Reiskin or Mr. Lewis within thirty (30) calendar days of such modification.

D. Pre-Litigation Procedure.

1. All Named and Representative Plaintiffs, including CCDC and any other Settlement Class Member working with or at the behest of any Named or Representative Plaintiff, including CCDC (collectively, “Complainant(s)”) must comply with the following provisions as a condition precedent to filing litigation against RTD regarding any claim of alleged non-compliance with the ADA, Rehabilitation Act, or similar law with respect to accessibility for individuals who use Wheelchairs, regardless of whether such claim is related to the claims that were or could have been asserted in the Litigation:

(a) If any Complainant believes that they have a legal claim against RTD concerning accessibility for individuals who use Wheelchairs, as a condition precedent to filing suit, the Complainant will provide written notice to RTD, describing the basis for the claim, including all relevant facts and reasons why it allegedly constitutes discrimination based on a disability or violation of the ADA, in sufficient detail for RTD to assess the claim. Written notice shall be by e-mail to the following e-mail address: adaprelitigation@rtd-denver.com. If RTD receives such a communication (by e-mail or other written notice) from a Complainant that does not provide sufficient detail, RTD will request any additional information it deems

necessary from the Complainant. The Complainant shall cooperate in good faith with RTD during this process.

(b) Within thirty (30) calendar days of RTD's receipt of the written notice or any additional information provided pursuant to RTD's request, whichever is later, RTD will contact the Complainant (or their attorney, if represented by counsel), provided that the Complainant has given RTD an accurate means of contacting them, and, within thirty (30) calendar days of contact, make an RTD representative available with authority to resolve the claim to meet and confer in person or by telephone with the Complainant (and/or their counsel) ("Meet and Confer").

(c) RTD will have a period of thirty (30) calendar days following the Meet and Confer to provide a written response to the Complainant detailing either the measures it has taken to resolve the claim or why it believes no additional action is warranted. Nothing in this Section II(D)(1)(c) shall prevent the Parties from agreeing to further meetings.

2. Only after following all procedures in Section II(D)(1)(a)-(c), or if RTD fails to comply with Section II(D)(1)(a)-(c), may a Complainant file litigation against RTD concerning the matter described in the written notice; provided, however, that such litigation must be filed within 180 days of RTD's written response under Section II(D)(1)(c), unless the Parties otherwise agree in writing. A Complainant who fails to file litigation within 180 days of RTD's written response under Section II(D)(1)(c) is not barred from filing such litigation, but must first comply with this Section II(D).

3. If RTD does not respond within thirty (30) calendar days of the Meet and Confer, it will waive its rights under the pre-litigation procedure outlined in Section II(D)(1)(a)-

(c). In that case, the Complainant will be deemed to have complied with the provisions of Section II(D).

4. If the Complainant does not respond to RTD's efforts to schedule the Meet and Confer within thirty (30) calendar days, or participate in the Meet and Confer, RTD will be deemed to have complied with the provisions of Section II(D).

5. Should a Complainant file litigation without following the procedures in Section II(D)(1)(a)-(c), RTD will provide written notice to the Complainant (or its counsel, if represented) that will include a copy of this Settlement Agreement and request that the Complainant voluntarily dismiss the claim without prejudice and complete the conferral process in this Section II(D). If the Complainant refuses to dismiss the claim following notice by RTD, it shall be dismissed with prejudice by the Court in which the action was filed.

6. During the pendency of the Litigation and negotiation of the Settlement Agreement, certain Plaintiffs raised issues with RTD concerning RTD's paratransit service called Access-a-Ride and the design of certain vehicles in RTD's fixed-route bus fleet. The Parties acknowledge and confirm that these matters will be subject to the procedures set forth in this Section II(D); however, the Parties, by written agreement and as part of their ongoing discussions, may shorten or waive any provisions in Section II(D) as it pertains to these issues.

7. The Parties agree that the provisions contained in this Section II(D) are an appropriate and enforceable alternative means of dispute resolution contemplated by 42 U.S.C. §12212.

E. Quarterly Meetings.

1. The Parties agree to cooperate to promote a constructive dialogue concerning issues related to the ADA concerning Light Rail Service. To this end, RTD agrees to

meet quarterly with Plaintiffs Julie Reiskin, Jon Jaime Lewis, or a staff member designee of CCDC who reports to Ms. Reiskin or Mr. Lewis, on behalf of the Class.

2. At the quarterly meetings, RTD will provide an oral status report regarding the types of complaints received, the resolution of those complaints, and any changes to RTD policies and procedures as a result of those complaints during the previous quarter concerning Light Rail Service. Subsequent to the meeting, RTD will produce minutes of the meeting to be shared with all attendees. If Class Counsel would like more information, they may submit a request pursuant to the Colorado Open Records Act. The quarterly meetings will occur at CCDC's office or such other location within the RTD district as CCDC may elect.

3. In addition to its obligations set forth in Section II(D) above, Class Counsel, on behalf of CCDC and CREEC, commit to raise any questions as to which they are considering litigation in one of these meetings or in writing at least thirty (30) calendar days prior to filing except as related to the issues discussed in Section II(D)(6), which are already the subject of ongoing discussions.

III. PRELIMINARY COURT APPROVAL

A. Motion for Preliminary Approval.

1. Within ten (10) business days of the complete execution of this Settlement Agreement, Plaintiffs shall file a Motion for Preliminary Approval of the Proposed Class Settlement ("Motion for Preliminary Approval"), which RTD will not oppose.

2. In that Motion, Plaintiffs will request the Court certify the Settlement Class for settlement purposes only under Fed. R. Civ. P. 23. Specifically, Plaintiffs will move the Court for certification for settlement purposes of the Settlement Class, which will include a Rule 23(b)(2) class with respect to the injunctive relief described herein and Rule 23(b)(3) opt-out class with respect to the release of damages claims, which RTD will not oppose.

3. In their Motion for Preliminary Approval, Plaintiffs will also request the Court appoint Class Counsel, grant preliminary approval of the Settlement and Class Notice Procedures, approve and set the deadline for Settlement Class Members to object to the Settlement, enjoin Settlement Class Members from initiating or prosecuting any litigation related to the claims resolved or released by this Agreement against RTD pending the Court's entry of a Final Order and Judgment, and set a final approval hearing within 90 calendar days of the Preliminary Approval Order, or at the Court's earliest convenience thereafter.

4. As more fully discussed in Section IX below, all actions associated with preliminary approval and certification are undertaken on the condition that all such certifications and designations are automatically vacated if this Settlement Agreement is terminated or disapproved, in whole or in material part, by the Court, any appellate Court, or any other Court of review, or if the Settlement Agreement is otherwise revoked or terminated, in which event this Agreement shall not be offered, received, or construed as an admission or as evidence for any purpose, including certifiability of any class.

B. Preliminary Approval Order.

1. Plaintiffs shall request the Court enter its Preliminary Approval Order substantially in the form and substance of Exhibit A attached hereto.

IV. CLASS NOTICE PROCEDURES

A. Timing and Reasonableness of Class Notice.

1. Pursuant to Fed. R. Civ. P. 23(e)(1), within fourteen (14) calendar days of the entry of the Preliminary Approval Order, notice of this Settlement will be provided to Settlement Class Members, as detailed below in this Section IV (collectively, "Class Notice").

2. The Parties agree that the Class Notice Procedures agreed to herein are reasonable and fairly calculated to alert Class Members of the Settlement and inform them of

their rights under the Settlement as required by Fed. R. Civ. P. 23 and the Due Process clause of the United States and Colorado Constitutions.

B. Posted Notice.

1. RTD shall post notice, in a form substantially similar to **Exhibit D**, (1) on all mini-high ramps at each station providing Light Rail Service in a location easily visible to passengers; (2) at RTD ticket sales outlets at Denver Union Station, Civic Center, two locations in Boulder, and if these sales outlets are temporarily closed, at the temporary replacement ticket outlet for that location; (3) the Special Discount Card location at 1600 Blake Street (“Posted Notice”). The Posted Notice shall be displayed for no less than thirty (30) consecutive calendar days.

2. RTD shall bear the costs associated with Posted Notice.

C. Website Notice.

1. RTD, CCDC, and CREEC shall post notice, in a form substantially similar to the Posted Notice, on their respective websites (“Website Notice”). The Website Notice shall remain posted for no less than thirty (30) consecutive calendar days. RTD will establish a link to the page on which the Website Notice appears on its Light Rail Service website page (www.rtd-denver.com/lightrail.shtml) as well as its Accessibility website page (www.rtd-denver.com/Accessibility.shtml). CCDC and CREEC will each put a link to the page on which the Website Notice appears on their respective main pages (www.ccdconline.org and www.creeclaw.org).

2. RTD, CCDC, and CREEC shall bear the costs, if any, associated with Website Notice on their respective websites.

D. Mailed Notice.

1. RTD shall send via U.S. Mail notice, in a form substantially similar to **Exhibit E** (“Mailed Notice”), to no more than ten (10) Colorado disability rights organizations

listed in **Exhibit F**. As reflected in Exhibit E, the Mailed Notice shall include a request that such notice be posted on the organization's bulletin boards for at least thirty (30) business days.

2. RTD shall bear the costs associated with Mailed Notice to the addresses, as provided on Exhibit F. RTD shall have no obligation to perform any additional search for, or otherwise attempt to verify addresses, including as to any returned, undelivered Mailed Notices.

E. E-mailed Notice.

1. CCDC and CREEC shall e-mail notice, in a form substantially similar to the Mailed Notice, to their members ("E-mailed Notice").

2. CCDC and CREEC shall bear the costs, if any, associated with E-mailed Notice.

F. CAFA Notice.

Within ten (10) days of the filing of the Motion for Preliminary Approval, RTD will serve on the Attorney General of the United States and the Attorney General of Colorado the documents listed in 28 U.S.C. § 1715(b) of the Class Action Fairness Act ("CAFA Notice").

The Parties agree that, for purposes of CAFA Notice, it is not feasible to provide the names of all Settlement Class Members pursuant to 28 U.S.C. § 1715(b)(7)(A) and, therefore, the procedure set forth in 28 U.S.C. § 1715(b)(7)(B) will be utilized.

V. REQUESTS FOR EXCLUSION & OBJECTIONS

A. Exclusions.

1. Unless otherwise ordered by the Court, any member of the Settlement Class may exclude him or herself from the portion of the Settlement Agreement that releases claims for damages by sending a written request for exclusion to Class Counsel and RTD's Counsel within thirty (30) calendar days of the commencement of Class Notice, the specific date and time which will be specified in the Class Notice.

2. The written request for exclusion must include the Settlement Class Member's name, address, and telephone number; must be signed by the Settlement Class Member; and clearly identify the Settlement Class Member's desire to be excluded.

3. Class Counsel and their respective organizations agree not to represent or provide legal advice to any person seeking exclusion from the Settlement Class in any claims against RTD related to those claims brought in the Litigation.

B. Confidential Opt-Out Agreement.

1. The Parties will agree to a Confidential Opt-Out Agreement that will specify that if timely requests for exclusion are received from a specified number or percentage of Rule 23(b)(3) Settlement Class Members, Defendant shall have the right, in its sole discretion, to proceed with a Rule 23(b)(2) settlement class only.

2. The Confidential Opt-Out Agreement will not provide a basis for Defendant to terminate the Rule 23(b)(2) class settlement.

3. The Confidential Opt-Out Agreement will be filed under seal and shall remain confidential, unless otherwise ordered by the Court.

C. Objections.

1. Unless otherwise ordered by the Court, any member of the Settlement Class may object to the proposed Settlement Agreement by filing written objections with the Court within sixty (60) calendar days of the commencement of Class Notice, the specific date and time which will be specified in the Class Notice.

2. Any such objections must include all grounds, including all bases in law and in fact, for each such objection.

3. Only Settlement Class Members that timely object in compliance with the procedures in this Section V(C) shall have the right to present any objections or arguments at the Final Approval Hearing.

VI. CLASS COUNSEL'S FEES AND COSTS

A. Fees and Costs.

1. Subject to Court approval, RTD agrees to pay Class Counsel the following amounts, inclusive of all attorneys' fees, costs, expenses, and gross receipts tax: \$125,000 within thirty (30) calendar days of the Final Settlement Date; \$125,000 by no later than March 1, 2018; and \$125,000 by no later than March 1, 2019. This payment schedule may be amended or modified by written agreement of RTD and Class Counsel without further Court approval.

2. RTD and Class Counsel agree this amount is fair and represents fair compensation for work performed by Class Counsel through Final Approval. Class Counsel is not entitled to any additional remuneration in connection with the Litigation or this Settlement Agreement, from RTD or the Settlement Class, beyond the payment pursuant to this Section VI(A)(1) and any amounts awarded pursuant to Paragraph X(C)(3).

3. A class representative award (incentive award) has not been and will not be requested by, or awarded to, any Named Plaintiff or Representative Plaintiff.

B. Motion for Award of Attorneys' Fees and Costs.

At least one (1) week before the deadline for filing objections, Plaintiffs shall file a motion, which RTD will not oppose, requesting an award of attorneys' fees in the amount agreed to by the Parties in Section VI(A)(1).

VII. FINAL COURT APPROVAL

A. Motion for Final Approval.

At least two (2) weeks prior to the final approval hearing, Plaintiffs shall file, and Defendant shall not oppose, a motion seeking the Court's entry of a mutually acceptable order granting final approval of this Settlement Agreement, responding to any objections to the Settlement, and entering final judgment.

B. Final Approval Hearing.

The Parties shall appear at the Final Approval Hearing set by the Court, and shall cooperate in defending this Settlement Agreement and seeking its final approval, including in addressing any timely objections to the Settlement Agreement.

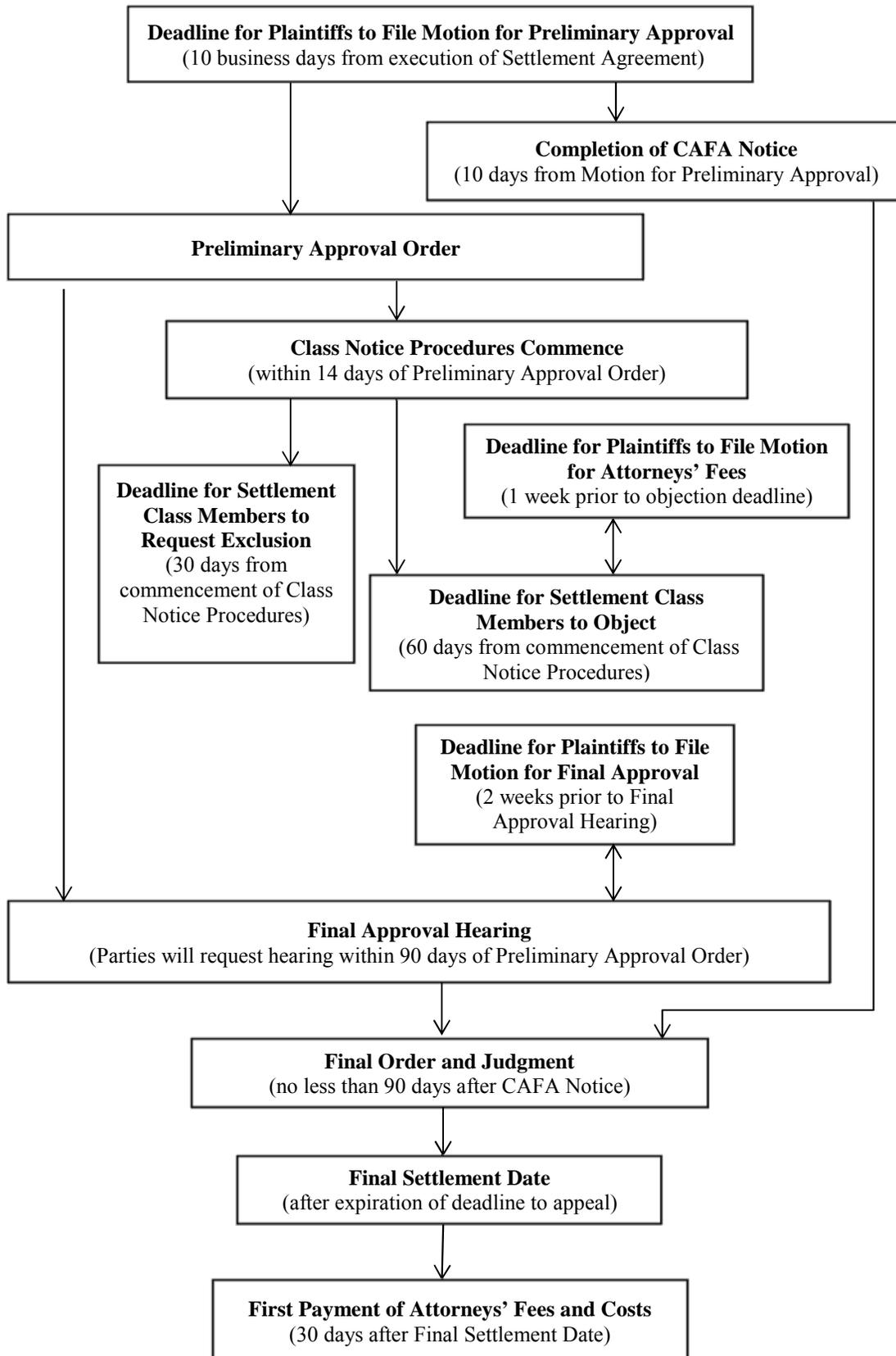
C. Final Approval and Certification.

Upon the Court's approval of this Settlement Agreement, the Parties will request the Court, on or after the period provided in 28 U.S.C. § 1715(d), enter a Final Order and Judgment.

VIII. SUMMARY OF DEADLINES AND TIMING

Table 1, below, summarizes the key deadlines detailed above in Sections III through VII. This table is provided as a summary and visual aid only. The detailed written terms, conditions, and explanations in this Settlement Agreement govern and, in the event of any discrepancy with Table 1, shall be controlling.

TABLE 1: SUMMARY OF KEY DEADLINES



IX. THE EFFECT OF DISAPPROVAL OR TERMINATION OF THIS SETTLEMENT AGREEMENT

A. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in this Settlement Agreement or its exhibits, nor any action taken hereunder shall constitute, be construed as, or be admissible as evidence as any admission of the validity of: (1) any claim or any fact alleged by Plaintiffs in the action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of RTD or any admission by RTD of any claim or allegation made by Plaintiffs in this action; or (2) any claim or any fact alleged by RTD in the action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of any of the Plaintiffs or an admission by any of the Plaintiffs of any claim or allegation made by RTD in this action.

B. If the Court fails to approve this Settlement Agreement, the Settlement Agreement shall be null and void, and obligations under this Settlement Agreement shall terminate. Neither this Settlement Agreement nor any communication in the course of this Settlement shall be deemed an admission by either party nor shall this Settlement Agreement be used in any way to subvert or limit the claims or defenses in the Litigation.

C. If the Court materially modifies a provision of the Settlement Agreement or Final Judgment, or if any of the terms of the Settlement Agreement are materially impaired, Plaintiffs and/or RTD, in their sole independent discretion, shall have the option of terminating the Settlement Agreement in writing within thirty (30) calendar days. The Parties shall each have the right to determine materiality in connection with this provision, provided, however, such determination is made in good faith and in compliance with prevailing law regarding materiality.

D. Nothing in this Settlement Agreement shall prejudice the rights of RTD in any way to: (a) oppose class certification in the Litigation should this Settlement Agreement not be

approved or implemented; (b) oppose class certification in the Litigation should this Settlement Agreement be altered or modified in any material way by the Court; or (c) to oppose certification of any other proposed or existing class arising out of the claims asserted herein.

X. DISPUTE RESOLUTION PROCESS

A. Scope of Dispute Resolution.

1. The dispute resolution process set forth in this Section X applies solely and exclusively to enforcement of the terms set out in Section II(A)-(C) herein. Nothing in this Section X is intended to or shall be interpreted to nullify or diminish the Parties' rights and obligations under the pre-litigation procedures described in Section II(D).

B. Conferral.

1. If any Party believes that a dispute exists relating to the performance or interpretation of the provisions in Section II(A)-(C) of this Settlement Agreement, it shall notify the undersigned counsel for all other Parties in writing, describing the dispute and clearly identifying that they are invoking the dispute resolution process under this Section X.

2. The Party receiving the notice shall respond in writing to such notice within ten (10) business days of receipt of the notice.

3. Within ten (10) business days of receipt of the response, Class Counsel and RTD's Counsel shall meet and confer by telephone or in person, and attempt in good faith to resolve the issue informally.

C. Alternative Dispute Resolution.

1. If, after completing the steps set out in Section X(B), either Party believes that a dispute still exists relating to the performance or interpretation of Section II(A)-(C) of this Settlement Agreement, the Parties shall participate in good faith in at least one mediation session, which the Parties agree should, if possible, be conducted by Magistrate Judge Kristen L.

Mix. The Parties agree to cooperate in filing a motion under Local Rule 16.6(a) requesting that the dispute be referred to mediation before Magistrate Judge Mix, each Party to pay its own attorneys' fees and costs. If Magistrate Judge Mix is unavailable, the Parties shall request that the Court select an alternative Magistrate Judge of the United States District Court for the District of Colorado to conduct the mediation.

2. If the mediation is unsuccessful, either Party may seek further relief from the Court. However, complete satisfaction of the provisions in this Section X shall be conditions precedent to any Party seeking Court intervention.

3. Should any matter proceed to Court under this Section X, attorneys' fees and costs will be awarded in accordance with 42 U.S.C. § 12205.

XI. RELEASES.

A. Release of Claims.

1. Effective upon the Final Settlement Date, Plaintiffs and all Settlement Class Members shall release, acquit, and forever discharge RTD from any and all liability arising from the Released Claims, and shall not institute, maintain, or assert any claims against RTD based on the Released Claims, which are defined as follows:

(a) If the Court certifies the Settlement Class under Rule 23(b)(2) and (b)(3), as requested by the Parties, "Released Claims" shall mean any and all claims or causes of action (including, but not limited to, claims for injunctive relief, declaratory judgment, actual or other damages, attorneys' fees and costs other than specifically provided in Sections VI and X hereof, and any penalty, exemplary or punitive damages, or fine) under Title II of the ADA or Section 504 of the Rehabilitation Act, including without limitation any regulations implementing all or a portion of the ADA or Section 504 or any similar local or state law, related to or arising out of RTD's Light Rail Service to individuals who use Wheelchairs, including without

limitation any and all vehicles, platforms (including high blocks, mini-high platforms and ramps thereto), and operator conduct, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, that were, or could have been, alleged or asserted, now or in the future, by Plaintiffs or any Settlement Class Member against RTD in the Litigation. The Released Claims specifically do not include: (1) claims under Title II of the ADA or Section 504 of the Rehabilitation Act that arise from RTD Light Rail station parking lots, ticket vending machines, or an accessible path of travel to the station; (2) tort claims for personal injury arising under common law; or (3) claims for employment discrimination.

(b) The Released Claims do not constitute a relinquishment or waiver of any Settlement Class Member's right to utilize RTD's ADA grievance and complaint procedure to report their experiences of RTD's daily operations, including any specific instances of operator conduct.

(c) If the Court certifies the Settlement Class under Rule 23(b)(2) only, "Released Claims" shall have the same meaning as defined above, except that it shall exclude claims or causes of action for actual damages.

(d) Plaintiffs agree not to assert any Released Claim against RTD, or encourage any third party to assert a Released Claim against RTD.

2. Effective upon the Final Settlement Date, RTD shall release, acquit, and forever discharge Plaintiffs from any and all liability arising from RTD's counterclaim for breach of contract, as detailed in the Litigation.

B. Release of Unknown Claims.

In connection with this Release and limited to the Released Claims, Plaintiffs acknowledge, for themselves and the Settlement Class Members, that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or

different from those that they now know or believe to be true with respect to the Released Claims. Nevertheless, it is the intention of Plaintiffs in executing the Release, for themselves and the Settlement Class, that they fully, finally, and forever settle and release all such matters, and all claims relating thereto, which exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims. To the extent that any applicable statutes or principles of law limit the Release of unknown claims, such statutes and principles shall be knowingly and voluntarily waived to the maximum extent permitted by law by Plaintiffs and the Settlement Class.

C. Attorneys' Fees and Expenses.

The Release shall cover, without limitation, any and all claims for attorneys' fees, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiffs or any Settlement Class Member, or by Plaintiffs or any Class Member in connection with or related in any manner to the Litigation, the Settlement, and/or the Released Claims, except to the extent otherwise specified in this Settlement Agreement.

XII. MISCELLANEOUS PROVISIONS

A. Best Interests of the Class.

Class Counsel and Plaintiffs represent that they are seeking to protect the interests of the entire Settlement Class and believe that this Settlement Agreement is in the best interests of the Settlement Class. Plaintiffs agree not to request exclusion from the Class or to encourage others to do so.

B. Choice of Law.

This Settlement Agreement shall be governed by federal procedural law and the substantive laws of the State of Colorado, except to the extent otherwise specified in this Settlement Agreement.

C. Communications Regarding Settlement.

The Settlement Agreement is not confidential. At a mutually agreeable time after Class Notice, the Parties shall issue a joint press release regarding this Settlement in substantially the form of **Exhibit G** hereto and the Parties shall ensure that any other mass and/or generalized statements to the media or press will be consistent with this press release or will have the prior approval of the other party.

D. Communications with Class Members.

Communications relating to this Settlement Agreement with Persons who have received Class Notice will be handled by Class Counsel, provided that nothing in this Settlement Agreement shall be construed to prevent RTD from communicating with Settlement Class Members in the normal course of business, or from resolving any given complaint by a Settlement Class Member, even if they otherwise fall within the scope of the Settlement Agreement, before the Settlement Agreement is finally approved.

E. Continuing Jurisdiction of the Court.

The Parties agree that the Court shall retain exclusive and continuing jurisdiction for the limited purpose of resolving disputes that require Court intervention as set forth in Section X.

F. Cooperation.

The Parties shall take all reasonable action to support and defend this Settlement Agreement and obtain final Court approval of the same. The Parties further commit to a broader partnership to enhance policies for accommodating the needs of passengers on RTD vehicles. To that end, no Party shall publicly take a position contrary to the substance of this Settlement Agreement with respect to access to Light Rail Service for Settlement Class Members. Furthermore, CCDC shall update its website page discussing the Litigation in a manner consistent with the terms and spirit of this Settlement Agreement, including as reflected in

Section IV, and will take any reference to Geoff Ames relating to this Litigation off of its website.

G. Counterparts.

This Settlement Agreement may be signed in counterparts, each of which shall constitute a duplicate original.

H. Effective Date.

The effective date of this Settlement Agreement shall be the first day upon which all Parties have executed this Settlement Agreement.

I. Entire Agreement.

This Settlement Agreement and its exhibits set forth the entire Agreement between the Parties relating to the Settlement of the Litigation and may not be altered or modified except by written instrument executed by Class Counsel and RTD's Counsel. Unless such notification or amendment materially alters any portion of Section II(A)-(C), or unless otherwise ordered by the Court, it can be made without notice to Class Members. There are no other representations or warranties between the Settling Parties relating to the subject matter of this Settlement Agreement that are not contained in this Settlement Agreement or that are being relied upon by either party to this Settlement Agreement.

J. Extensions.

The Parties, through their counsel, may agree to any reasonable extensions of time in connection with provisions of this Settlement Agreement. Such extensions must be in writing to be enforceable. However, to the extent a requested extension of time is material to the rights and benefits of the Settlement Class Members, the Parties shall seek the Court's approval of any such requested extensions.

K. Further Assurances.

The Parties agree that upon the request of any one of them, they will execute and deliver such further documents and undertake such further action as may reasonably be required to effect any of the agreements and covenants contained in this Settlement Agreement.

L. Mutually Drafted.

This Settlement Agreement is the product of negotiations between the Parties and shall be given fair interpretation. Each of the Parties hereto expressly acknowledges that this Settlement Agreement was, and shall be deemed to have been, mutually prepared, drafted, and negotiated, such that the rule of construction that ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Settlement Agreement.

M. No Admissions.

This Settlement Agreement shall in no event be construed or deemed to be evidence or an admission or a concession on the part of any Party with respect to any claim of any fault or liability or damages.

N. Parties Bound.

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties, the Class Members, Releasees, and their respective heirs, successors, and assigns.

O. Postmarks.

Whenever a Class Member is required to provide notice or submit materials by a certain date, the notice or submission shall be timely only if it is postmarked on or before the date it is due and is in fact received by the intended recipient within ten days thereafter. Notwithstanding the foregoing, however, objections to the Settlement Agreement and notices of appearance must be actually delivered to and received by the intended recipient on or before the date they are due.

P. Tax Obligations.

By virtue of this Settlement Agreement, RTD and its counsel express no advice, belief, or opinion regarding the tax consequences, if any, of any payment made in connection with this Settlement Agreement.

Q. Term.

The term of this Settlement Agreement shall be five (5) years from the Final Settlement Date or the date on which all disputes raised pursuant to Section X hereof shall be resolved, whichever is latest.

R. Unambiguous Contract.

This Settlement Agreement was drafted by counsel for the Parties at arm's length and its terms are clear and unambiguous. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, its intent, or the circumstances under which it was made or executed.

I, the undersigned, have fully read and understand the terms of the foregoing Settlement Agreement, have had ample opportunity to consult with my legal counsel regarding the scope and meaning of this Settlement Agreement, and being fully advised, freely and voluntarily execute and agree to this Settlement Agreement. I represent and warrant that I am authorized and have legal capacity to execute and deliver this Agreement, and that the Agreement is a valid and legal agreement that is binding and enforceable in accordance with its terms.

JULIE REISKIN



Representative Plaintiff, individually and on behalf of the Settlement Class

Date: 10/27/16

JON JAIME LEWIS

Plaintiff

Date: _____

WILLIAM JOE BEAVER

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

DOUGLAS HOWEY

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

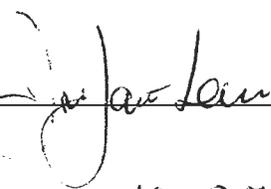
I, the undersigned, have fully read and understand the terms of the foregoing Settlement Agreement, have had ample opportunity to consult with my legal counsel regarding the scope and meaning of this Settlement Agreement, and being fully advised, freely and voluntarily execute and agree to this Settlement Agreement. I represent and warrant that I am authorized and have legal capacity to execute and deliver this Agreement, and that the Agreement is a valid and legal agreement that is binding and enforceable in accordance with its terms.

JULIE REISKIN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JON JAIME LEWIS

Plaintiff 

Date: 10-25-16

WILLIAM JOE BEAVER

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

DOUGLAS HOWEY

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

I, the undersigned, have fully read and understand the terms of the foregoing Settlement Agreement, have had ample opportunity to consult with my legal counsel regarding the scope and meaning of this Settlement Agreement, and being fully advised, freely and voluntarily execute and agree to this Settlement Agreement. I represent and warrant that I am authorized and have legal capacity to execute and deliver this Agreement, and that the Agreement is a valid and legal agreement that is binding and enforceable in accordance with its terms.

JULIE REISKIN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JON JAIME LEWIS

Plaintiff

Date: _____

WILLIAM JOE BEAVER

William Joe Beaver

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: 10/27/16

DOUGLAS HOWEY

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

I, the undersigned, have fully read and understand the terms of the foregoing Settlement Agreement, have had ample opportunity to consult with my legal counsel regarding the scope and meaning of this Settlement Agreement, and being fully advised, freely and voluntarily execute and agree to this Settlement Agreement. I represent and warrant that I am authorized and have legal capacity to execute and deliver this Agreement, and that the Agreement is a valid and legal agreement that is binding and enforceable in accordance with its terms.

JULIE REISKIN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JON JAIME LEWIS

Plaintiff

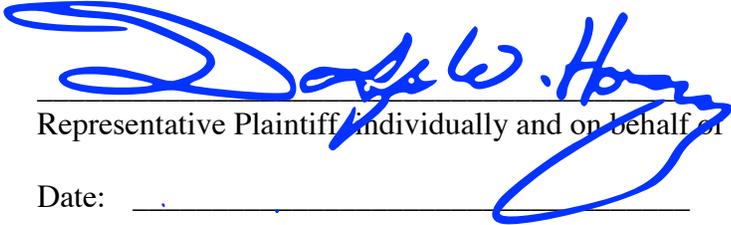
Date: _____

WILLIAM JOE BEAVER

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

DOUGLAS HOWEY



Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

DIANA MILNE

Diana Milne
Plaintiff

Date: 11-8-16

TINA MCDONALD

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOSÉ TORRES-VEGA

Plaintiff

Date: _____

RANDY KILBOURN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOHN BABCOCK

Plaintiff

Date: _____

DIANA MILNE

Plaintiff

Date: _____

TINA MCDONALD



Representative Plaintiff, individually and on behalf
of the Settlement Class

Date: 10/28/2016

JOSE TORRES-VEGA

Plain tiff

Date: _____

RANDY KILBOURN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOHN BABCOCK

Plaintiff

Date: _____

DIANA MILNE

Plaintiff

Date: _____

TINA MCDONALD

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOSÉ TORRES-VEGA

Plaintiff

Date: 10/27/2016

RANDY KILBOURN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOHN BABCOCK

Plaintiff

Date: _____

DIANA MILNE

Plaintiff

Date: _____

TINA MCDONALD

Representative Plaintiff, individually and on behalf of the Settlement Class

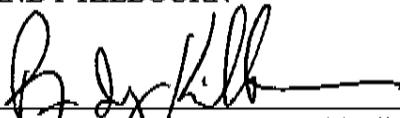
Date: _____

JOSÉ TORRES-VEGA

Plaintiff

Date: _____

RANDY KILBOURN



Representative Plaintiff, individually and on behalf of the Settlement Class

Date: 11/10/16

JOHN BABCOCK

Plaintiff

Date: _____

DIANA MILNE

Plaintiff

Date: _____

TINA MCDONALD

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOSÉ TORRES-VEGA

Plaintiff

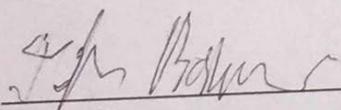
Date: _____

RANDY KILBOURN

Representative Plaintiff, individually and on behalf of the Settlement Class

Date: _____

JOHN BABCOCK



Plaintiff

Date: 11-9-2016

KIMBERLEY JACKSON

Plaintiff

Date: _____

PAULINA BLACK

Plaintiff

Date: _____

RUTHIE MCNAIR

Plaintiff

Date: _____

VRLINA NOZLIÇ

Plaintiff

Date: _____

CHRIS QUINLAN

Plaintiff

Date: _____

KIMBERLEY JACKSON

Plaintiff

Date: _____

PAULINA BLACK

Paulina Black

Plaintiff

Date: 10/26/16

RUTHIE MCNAIR

Plaintiff

Date: _____

VRLINA NOZLIÇ

Plaintiff

Date: _____

CHRIS QUINLAN

Plaintiff

Date: _____

KIMBERLEY JACKSON

Plaintiff

Date: _____

PAULINA BLACK

Plaintiff

Date: _____

RUTHIE MCNAIR

Ruthie McNaair

Plaintiff

Date: *11/8/16* _____

VRLINA NOZLIÇ

Plaintiff

Date: _____

CHRIS QUINLAN

Plaintiff

Date: _____

KIMBERLEY JACKSON

Plaintiff

Date: _____

PAULINA BLACK

Plaintiff

Date: _____

RUTHIE MCNAIR

Plaintiff

Date: _____

VRLINA NOZLIÇ

Vrlina Nozlic' (VRLINA NOZLIC')

Plaintiff

Date: 10/26/16

CHRIS QUINLAN

Plaintiff

Date: _____

KIMBERLEY JACKSON

Plaintiff

Date: _____

PAULINA BLACK

Plaintiff

Date: _____

RUTHIE MCNAIR

Plaintiff

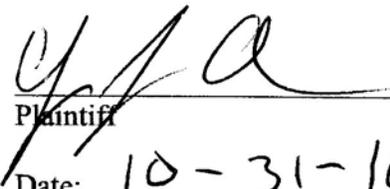
Date: _____

URLINA NOZLIÇ

Plaintiff

Date: _____

CHRIS QUINLAN



Plaintiff

Date: 10-31-16

CHERYL QUINLAN



Plaintiff

Date: 10-31-16

ELAINE CULPEPPER

Plaintiff

Date: _____

KEVIN GRIMSINGER

Plaintiff

Date: _____

Approved as to Legal Form for Plaintiffs:

Class Counsel

CHERYL QUINLAN

Plaintiff

Date: _____

ELAINE CULPEPPER

Elaine Culpepper

Plaintiff

Date: *Nov 1, 2016*

KEVIN GRIMSINGER

Plaintiff

Date: _____

Approved as to Legal Form for Plaintiffs:

Class Counsel

CHERYL QUINLAN

Plaintiff

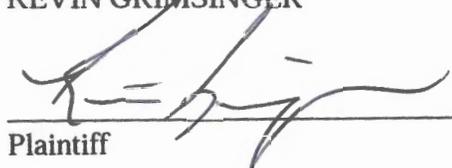
Date: _____

ELAINE CULPEPPER

Plaintiff

Date: _____

KEVIN GRIMSINGER



Plaintiff

Date: Oct 31, 2016

Approved as to Legal Form for Plaintiffs:

Class Counsel

CHERYL QUINLAN

Plaintiff

Date: _____

ELAINE CULPEPPER

Plaintiff

Date: _____

KEVIN GRIMSINGER

Plaintiff

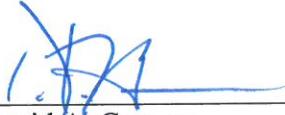
Date: _____

Approved as to Legal Form for Plaintiffs:



Class Counsel

REGIONAL TRANSPORTATION DISTRICT

By: 

David A. Genova
General Manager and CEO

Date: 10.31.16

Approved as to Legal Form for RTD:



Jenifer M. Ross-Amato, Deputy General Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 14-cv-03111-CMA-KLM

JULIE REISKIN *et al.*, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

REGIONAL TRANSPORTATION DISTRICT,

Defendant.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR
CERTIFICATION OF A CLASS FOR SETTLEMENT PURPOSES ONLY AND
PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT**

IT IS HEREBY ORDERED that Plaintiffs' Unopposed Motion for Certification of a Class for Settlement Purposes Only and Preliminary Approval Of Settlement Agreement And Order Unopposed Motion for Preliminary Approval of Class Action Settlement Agreement and for Fairness Hearing ("Motion") (ECF No. __) is GRANTED.

For the reasons set forth in the Motion and below, this Court hereby grants preliminary approval of the Settlement Agreement among the Parties, filed with this Court as Exhibit __ to Plaintiffs' Motion (ECF No. __). Given the procedural posture of this case, the Settlement Agreement is fair and reasonable, and therefore:

- This Court certifies the proposed class for settlement purposes only. The class definition meets all purposes needed for the class in this case.

EXHIBIT A

- This Court appoints Representative Plaintiffs as the representatives of the Class. This Court finds the Representative Plaintiffs reflect all necessary requirements to be representatives of both the other Plaintiffs in this case and meet the definition of Settlement Class Members set forth in the Settlement Agreement. This definition meets all Due Process requirements of the United States Constitution.
- This Court appoints Kevin Williams and Andrew Montoya of the Colorado Cross-Disability Coalition as Class Counsel. They each meet all the necessary qualifications of Class Counsel in this case.
- This Court GRANTS approval of the Notice of Class Settlement, collectively attached as Exhibits D and E to the Settlement Agreement, and authorizes the proposed Class Notice and Notice Procedures described herein.
- The Settlement Agreement meets all requirements of Fed. R. Civ. P. 23 and the Due Process requirements of the United States Constitution.
- This Court hereby enjoins all Settlement Class Members from initiating or prosecuting any litigation relating to the claims resolved by the Settlement Agreement against RTD pending the Court's entry of Final Order and Judgment.

Accordingly, the Court sets the following deadlines and FURTHER ORDERS that:

- CAFA Notice shall be completed on or before _____, 2016. [*10 business days after execution of settlement agreement*]
- Class Notice Procedures shall commence within 14 calendar days of entry of this Preliminary Approval Order.

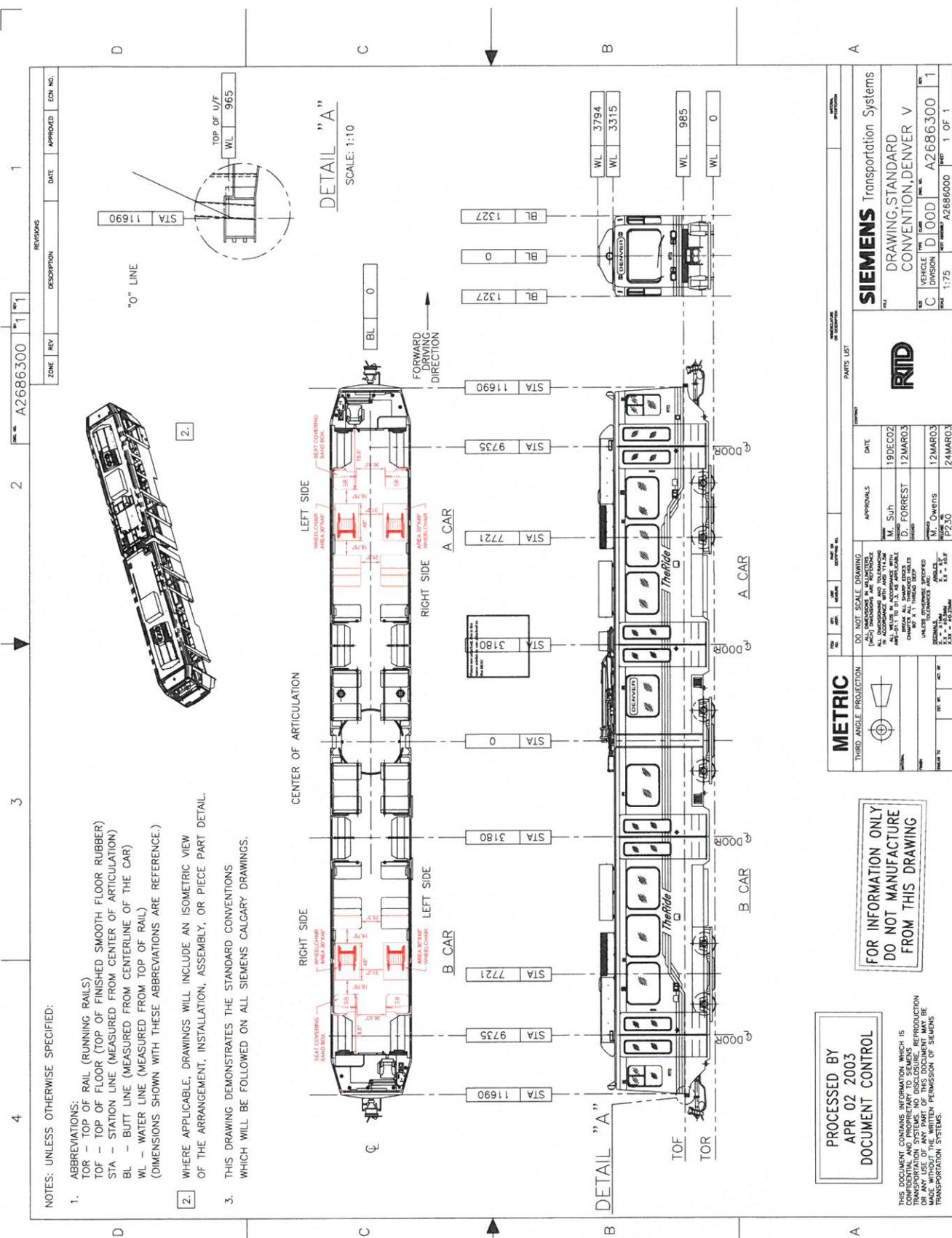
- Class members shall submit requests for exclusion no later than 30 days after the commencement of Class Notice Procedures.
- Plaintiffs’ Motion for Attorneys’ Fees is due one week prior to the deadline for objections to the Settlement Agreement.
- Class members shall submit objections, if any, to the Settlement Agreement on or before no later than 60 days after the commencement of Class Notice Procedures.
- Plaintiffs’ Motion for Final Approval of the Settlement Agreement is due no later than _____, 2016. [*Two weeks prior to the Final Approval Hearing*]
- The Court sets the following date of _____, 2016, at _____.m. for a hearing on Class Counsel’s Unopposed Motion for Attorneys’ Fees and Costs.
- The Court sets the following date _____, 2016, at _____.m. for a hearing on Plaintiffs’ Motion for Final Approval.

IT IS SO ORDERED.

DATED: _____.

BY THE COURT:

 Christine M. Arguello
 United States District Judge



ZONE	REV	DESCRIPTION	DATE	APPROVED	EDN NO.
	1				

- NOTES: UNLESS OTHERWISE SPECIFIED:
- ABBREVIATIONS:
 TOR - TOP OF RAIL (RUNNING RAILS)
 TOP - TOP OF FLOOR (TOP OF FINISHED SMOOTH FLOOR RUBBER)
 STA - STATION LINE (MEASURED FROM CENTER OF ARTICULATION)
 BL - BUTT LINE (MEASURED FROM CENTERLINE OF THE CAR)
 WL - WATER LINE (MEASURED FROM TOP OF RAIL)
 (DIMENSIONS SHOWN WITH THESE ABBREVIATIONS ARE REFERENCE.)

2. WHERE APPLICABLE, DRAWINGS WILL INCLUDE AN ISOMETRIC VIEW OF THE ARRANGEMENT, INSTALLATION, ASSEMBLY, OR PIECE PART DETAIL.

3. THIS DRAWING DEMONSTRATES THE STANDARD CONVENTIONS WHICH WILL BE FOLLOWED ON ALL SIEMENS CALGARY DRAWINGS.

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 THIRD ANGLE PROJECTION

NO.	REV.	DATE	BY	CHKD.	DESCRIPTION
1		19DEC02	M. Suh		APPROVALS
2		12MAR03	D. FORREST		APPROVALS
3		12MAR03	M. Ometis		APPROVALS
4		24MAR03	P2.30		APPROVALS

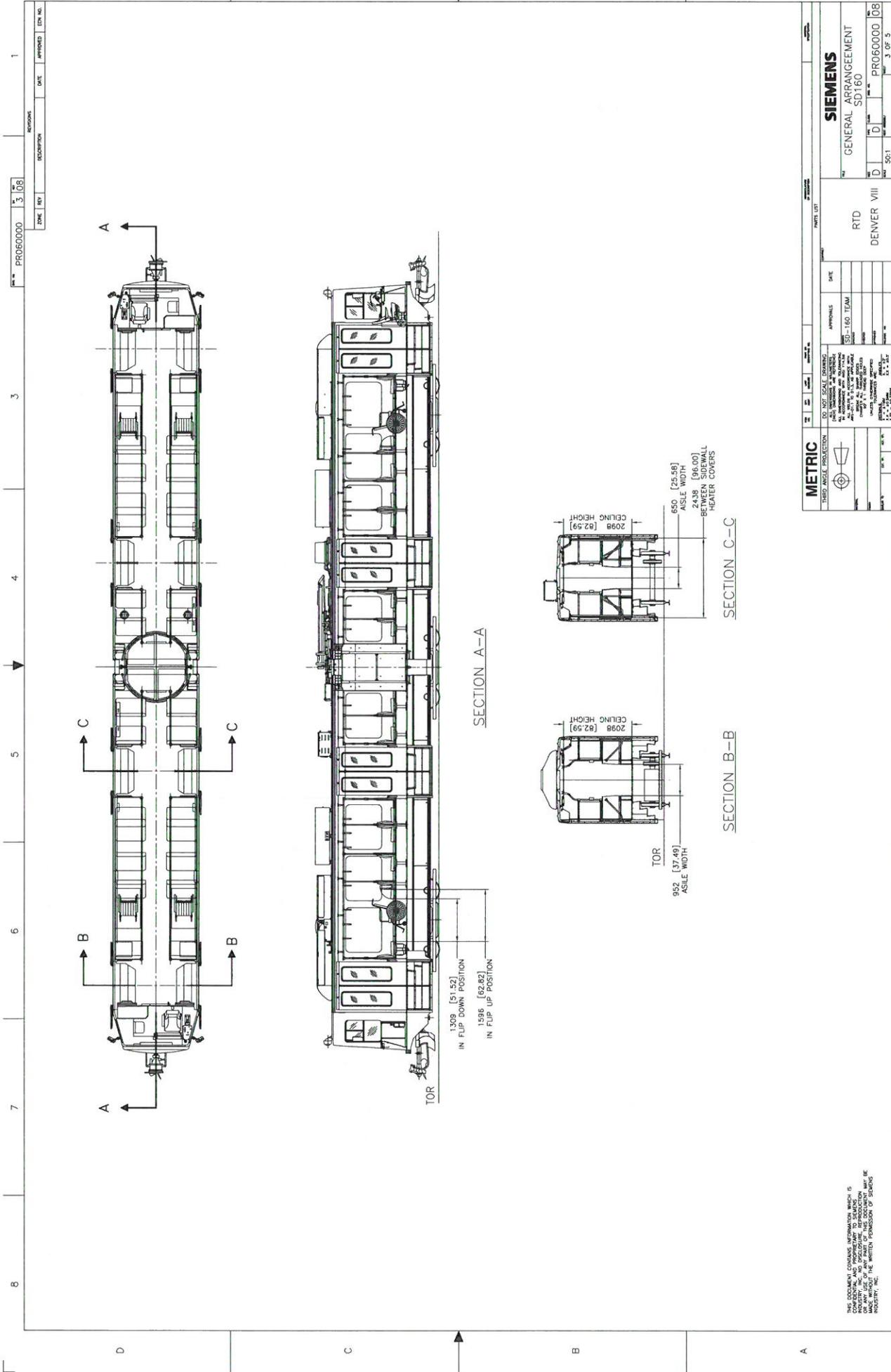
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 SCALE: 1:10
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 CHECKED BY: M. Ometis
 DATE: 12MAR03
 PROJECT: A2686300
 SHEET: 1 OF 1

SIEMENS Transportation Systems	
DRAWING: STANDARD CONVENTION, DENVER V	
VEHICLE DIVISION: D100D	Part No.: A2686300
Scale: 1:75	Sheet: 1 OF 1



EXHIBIT B

60



PROJ. NO.	PROJ. NAME	REV.	DATE	BY	CHKD.	APP'D.	ENR. NO.
PR060000	3	108					

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PARTS LIST		DATE	
APPROVALS		DATE	
SIEMENS ENERGY INC.		RTD DENVER VIII	
GENERAL ARRANGEMENT		PR060000	
SD-180 TEAM		3 OF 5	

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NOTICE OF CLASS ACTION SETTLEMENT INVOLVING:

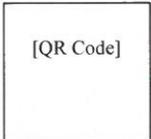
All Persons in Colorado who are qualified individuals with disabilities, who use wheelchairs (as that term is defined by 49 C.F.R. § 37.3), and who have used, currently use, or may in the future use the Regional Transportation District’s Light Rail Service (“Class”).

Class action litigation against the Regional Transportation District (“RTD”) has been pending in the United States District Court for the District of Colorado in Case No. 14-cv-03111-CMA-KLM (the “Action”). The Parties have reached a proposed class settlement (“Settlement”), which the Court has preliminarily approved. The Court has certified the Class for settlement purposes only and authorized this Notice.

THIS SETTLEMENT MAY AFFECT YOUR RIGHTS

Please take notice the Court will hold a hearing on [date] at [time] at the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver Colorado 80294, before the Honorable Judge Christine Arguello to determine: (1) whether the Settlement should be finally approved as fair, reasonable, and adequate; (2) whether the case should be dismissed with prejudice; (3) whether Class members should be bound by the terms and provisions, including the releases, set forth in the Settlement; (4) whether the Class members should be permanently enjoined from, among other things, commencing any other lawsuit or other proceeding relating to the claims, facts, or circumstances in this Action; and (5) whether Class Counsel’s application of an award of attorneys’ fees and costs should be approved.

For details, please see [website] for a complete copy of the proposed class settlement agreement or use the QR code below:



If you are a member of the Class, you have the right to exclude yourself from this Settlement by sending a written request for exclusion to Class Counsel and RTD’s Counsel no later than [date/time]. You also have the right to object to this Settlement by filing written objections with the Court no later than [date/time].

Please do not contact the Court or Court Clerk with questions about this Settlement. If you have questions, please contact Class Counsel at:

Kevin W. Williams, Esq.
Andrew C. Montoya, Esq.
Colorado Cross-Disability Coalition
1385 South Colorado Boulevard, Suite 610-A
Denver, CO 80222
720-336-3584 (Williams); 720-336-1036 (Montoya)
kwilliams@ccdconline.org; amontoya@ccdconline.org

For purposes of any requests for exclusion, RTD’s Counsel should be contacted at:

Jenifer M. Ross-Amato, Esq. Mindy Swaney, Esq. Regional Transportation District 1600 Blake Street Denver, CO 80202	Michael D. Plachy, Esq. Jessica L. Fuller, Esq. Lewis Roca Rothgerber Christie LLP One Tabor Center, Suite 3000 1200 Seventeenth Street Denver, CO 80202
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Dear [Disability Rights Organization],

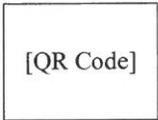
PLEASE TAKE NOTICE that class action litigation against the Regional Transportation District (“RTD”) has been pending in the United States District Court for the District of Colorado in Case No. 14-cv-03111-CMA-KLM (the “Action”). The Parties have reached a proposed class settlement (“Settlement”), which the Court has preliminarily approved. The Court has certified the Class for settlement purposes only and authorized this Notice. RTD hereby requests that you post this Notice on your organization’s bulletin board for at least thirty (30) business days.

NOTICE OF CLASS ACTION SETTLEMENT INVOLVING:

All Persons in Colorado who are qualified individuals with disabilities, who use wheelchairs (as that term is defined by 49 C.F.R. § 37.3), and who have used, currently use, or may in the future use the Regional Transportation District’s Light Rail Service (“Class”).

THIS SETTLEMENT MAY AFFECT YOUR RIGHTS

Please take notice the Court will hold a hearing on [date] at [time] at the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver Colorado 80294, before the Honorable Judge Christine Arguello to determine: (1) whether the Settlement should be finally approved as fair, reasonable, and adequate; (2) whether the case should be dismissed with prejudice; (3) whether Class members should be bound by the terms and provisions, including the releases, set forth in the Settlement; (4) whether the Class members should be permanently enjoined from, among other things, commencing any other lawsuit or other proceeding relating to the claims, facts, or circumstances in this Action; and (5) whether Class Counsel’s application of an award of attorneys’ fees and costs should be approved. For details, please see [website] for a complete copy of the proposed class settlement agreement or use the QR code below:



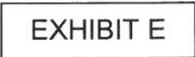
If you are a member of the Class, you have the right to exclude yourself from this Settlement by sending a written request for exclusion to Class Counsel and RTD’s Counsel no later than [date/time]. You also have the right to object to this Settlement by filing written objections with the Court no later than [date/time].

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Colorado Cross-Disability Coalition
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Denver, CO 80222
720-336-3584 (Williams); 720-336-1036 (Montoya)

For purposes of any requests for exclusion, RTD’s Counsel should be contacted at:

Jenifer M. Ross-Amato, Esq. Mindy Swaney, Esq. Regional Transportation District 1600 Blake Street Denver, CO 80202	Michael D. Plachy, Esq. Jessica L. Fuller, Esq. Lewis Roca Rothgerber Christie LLP One Tabor Center, Suite 3000 1200 Seventeenth Street Denver, CO 80202
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List of Organizations to Receive Mailed Notice

Center for People with Disabilities
1675 Range Street
Boulder, CO 80301

Center for People with Disabilities (CPWD Satellite)
25 Garden Center, Suite 1
Broomfield, CO 80020

Atlantis Community, Inc.
201 South Cherokee Street
Denver, CO 80223

Mile High Independent Living Center
110 16th Street, Suite 504
Denver, CO 80202

National Sports Center for the Disabled
Sports Authority Field at Mile High
1801 Mile High Stadium Circle, #1500
Denver, CO 80204

Denver Commission for People with Disabilities
Webb Municipal Building, 2nd Floor
201 W. Colfax Avenue, Dept. 1102
Denver, CO 80202

Disabled Resource Services
1017 Robertson Street, Unit B
Ft. Collins, CO 80524

Colorado Advisory Council for Persons with Disabilities
Post Office Box 151247
Lakewood, CO 80215

Center for People with Disabilities (CPWD Satellite)
615 North Main
Longmont, CO 80501

Center for People with Disabilities (CPWD Satellite)
10351 Grant Street
Thornton, CO 80229



Scott Reed | 303.299.2137 office | 720.326.7311 mobile

RTD enhancing use of wheelchair securement area and mobility access on light rail vehicles

Denver, [XX], 2016 – The Regional Transportation District (RTD) and the Colorado Cross-Disability Coalition (CCDC) are collaborating to ensure that passengers with mobility impairments requiring devices specifically to assist with ambulation, including manual and motorized wheelchairs, scooters, and walkers, are able to easily board and maneuver inside light rail vehicles.

As a part of this effort, RTD will be altering the seating design of current and new light rail vehicles. The retrofit includes removing a set of seats next to the current wheelchair areas, which will open up the designated area for easier access. This will also provide additional standing room for passengers in light rail vehicles when not being used for mobility devices.

Within the next five years, RTD will be retrofitting all existing light rail vehicles. In addition, all new vehicles will be substantially similar in design to the retrofitted vehicles.

"We are committed to ensuring that our services are as accessible and safe as possible for all riders," said RTD General Manager and CEO David Genova. "We continue to partner with organizations that represent the ADA community to look for ways that we can improve our facilities, vehicles and services."

RTD directs light rail operators not to discriminate against disabled riders and trains operators to ensure they are aware of their obligation not to discriminate.

In addition, CCDC and class members working with CCDC have agreed to notify RTD prior to filing future litigation against RTD concerning the Americans with Disabilities Act or similar laws.

"This settlement requires that the parties meet and discuss issues before taking any adverse action," said Colorado Cross-Disability Coalition Executive Director and Plaintiff Julie Reiskin. "I am proud that we were all able to come together to find an agreeable solution for all parties that helps improve light rail services throughout the region."

About RTD

RTD's mission is to provide safe, clean, reliable, courteous, accessible and cost-effective bus and rail services in the eight-county district, and fulfills 100 million passenger trips annually. The public transit agency is creating a larger, better and more accessible system through innovation, public-private partnerships and transit-oriented communities.

About CCDC

CCDC advocates for Social Justice for people with all types of disabilities. CCDC envisions that Colorado will be the most accessible state in the nation in terms of public transportation, public accommodations and state and local government. CCDC believes that input provided by the disability community must be respected and used by state agencies.

###

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-03111-CMA-KLM

JULIE REISKIN, et al., on behalf of herself and others similarly situated,

Plaintiffs,

v.

REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of
Colorado,

Defendant.

**DECLARATION OF KEVIN W. WILLIAMS IN SUPPORT OF PLAINTIFFS' UNOPPOSED
MOTION OF A CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY AND
PRELIMINARY APPROVAL OF CLASS SETTLEMENT AGREEMENT**

I, Kevin W. Williams, declare as follows:

1. I am over eighteen years of age, am familiar with the facts stated below based on my own personal knowledge, and if called upon could and would testify competently about them.

2. I make this declaration in support of Plaintiffs' Unopposed Motion of a Class Certification for Settlement Purposes Only and Preliminary Approval of Class Settlement Agreement.

3. I am an attorney in good standing of the State Bar of Colorado, and I am the Legal Program Director of the Colorado Cross-Disability Coalition ("CCDC"), a position I have held for the last twenty years. I am counsel for Plaintiffs in this action.

4. For the last twenty years, I have litigated nothing but disability rights cases. These are the only types of cases I have litigated during that timeframe.

5. I have litigated many class action cases, and I have been appointed class counsel in the following cases: *CCDC, et al. v. Abercrombie & Fitch Co., et al.*, 09-cv-02757-WYD-KMT (U.S. Dist. Ct. of Colo. 2009); *Denny v. City and County of Denver*, 2016CV030247 (Denv. Dist. Ct. 2016); *CCDC et al. v. Henneberry and Colorado Department of Health Care Policy and Financing*, 2009CV11761 (Denv. Dist. Ct. 2009); *Ehman et. al. v. Home Builders Association of Metropolitan Denver*, 01-N-1522 (BNB) (U.S. Dist. Ct. Colo. 2001); *Farrar-Kuhn et al. v. Conoco, Inc.*, Civ. Act. No. 99-WM-2086 (PAC) (U.S. Dist. Ct. Colo. 1999); *Lucas v. Kmart, Corp.*, Civ. Act. No. 99-K-1923 (CBS) (U.S. Dist Ct. Colo. 1999) *Colorado Cross-Disability Coalition, et. al., v. City and County of Denver, Colorado et. al.* 06-cv-00865-LTB(BNB) (U.S. Dist. Ct. Colo. 2006). Most of these cases in settlement had monitoring provisions similar to those in the instant case.

6. I have worked for twenty years for CCDC, which has as its mission, "CCDC advocates for social justice for people with all types of disabilities." See CCDC Mission on website: <http://ccdconline.org/about/mission> (last accessed September 13, 2016).

7. Cases I have litigated in which I have been appointed class counsel have never resulted in any conflict of any kind.

8. Based on my experience litigating disability rights class action lawsuits, I believe this Class Action Settlement Agreement is fair and reasonable.

9. I declare under penalty of perjury that the foregoing is true and correct. Further the Declarant says nothing.

Executed on November 14, 2016.

/s/ Kevin W. Williams
Kevin W. Williams

Attorney for Plaintiffs

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-03111-CMA-KLM

JULIE REISKIN, et al., on behalf of herself and others similarly situated,

Plaintiffs,

v.

REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of
Colorado,

Defendant.

**DECLARATION OF ANDREW C. MONTOYA IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION OF A CLASS CERTIFICATION FOR SETTLEMENT PURPOSES
ONLY AND PRELIMINARY APPROVAL OF CLASS SETTLEMENT AGREEMENT**

I, Andrew C. Montoya, declare as follows:

1. I am over eighteen years of age, am familiar with the facts stated below based on my own personal knowledge, and if called upon could and would testify competently about them.

2. I make this declaration in support of Plaintiffs' Unopposed Motion of a Class Certification for Settlement Purposes Only and Preliminary Approval of Class Settlement Agreement.

3. I am an attorney in good standing of the State Bar of Colorado, and I am an Associate Attorney with the Colorado Cross-Disability Coalition ("CCDC"), a position I have held for the last six years after working for CCDC as its Legal Program Assistant for a year and a half before going to law school. I then worked as an Assistant for the

Legal Program for one year while in law school, taking the bar exam and prior to being sworn in an attorney in Colorado. I am counsel for Plaintiffs in this action.

4. For the last six years, I have litigated nothing but disability rights cases. These are the only types of cases I have litigated during that timeframe.

5. I have litigated the following case in which I was appointed class counsel: *CCDC, et al. v. Abercrombie & Fitch Co., et al.*, 09-cv-02757-WYD-KMT (U.S. Dist. Ct. of Colo. 2009).

6. I have worked for six years for CCDC as an attorney, and two and a half years in other capacities in the Legal Program as explained. CCDC has as its mission: "CCDC advocates for social justice for people with all types of disabilities." See CCDC Mission on website: <http://ccdconline.org/about/mission> (last accessed September 13, 2016).

7. The case I have litigated in which I have been appointed class counsel has never resulted in any conflict of any kind.

8. Based on my experience litigating disability rights lawsuits, I believe this Class Action Settlement Agreement is fair and reasonable.

9. I declare under penalty of perjury that the foregoing is true and correct.

Further the Declarant says nothing.

Executed on November 14, 2016.

/s/ Andrew C. Montoya
Andrew C. Montoya

Attorney for Plaintiffs