

## APPENDIX A

### UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

#### GRANT AGREEMENT (FTA G-29, October 1, 2021)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official signs this Grant Agreement, FTA has obligated and awarded federal assistance as provided below. Upon execution of this Grant Agreement by the Recipient named below, the Recipient affirms this FTA Award, enters into this Grant Agreement with FTA, and binds its compliance with the terms of this Grant Agreement.

The following documents are incorporated by reference and made part of this Grant Agreement:

- (1) "Federal Transit Administration Master Agreement," FTA MA(29), <http://www.transit.dot.gov>,
- (2) The Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

WHEN THE TERM "FTA AWARD" OR "AWARD" IS USED, EITHER IN THIS GRANT AGREEMENT OR THE APPLICABLE MASTER AGREEMENT, "AWARD" ALSO INCLUDES ALL TERMS AND CONDITIONS SET FORTH IN THIS GRANT AGREEMENT.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE RECIPIENT DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING FTA'S AWARD DATE SET FORTH HEREIN.

#### FTA AWARD

Federal Transit Administration (FTA) hereby awards a Federal Grant as follows:

##### Recipient Information

Recipient Name: KANSAS CITY AREA TRANSPORTATION AUTHORITY

Recipient ID: 1827

UEI: DADDJ2EKZ5L8

DUNS: 073046773

## **Award Information**

Federal Award Identification Number: MO-2022-021-00

Award Name: KCATA American Rescue Act (ARP) Regional Transportation Assistance Project

Award Start Date: 7/22/2022

Original Award End Date: 12/30/2026

Current Award End Date: 12/30/2026

Award Executive Summary: This is an FFY 2021 Section 5307 ARP funding application for the Kansas City , Missouri/Kansas urbanized area in the amount of \$66,051,551 representing 100% federal share of the total eligible amount. This application utilizes ARP funding to prevent, prepare for, and respond to coronavirus.

**PURPOSE:** The ARP funding will be utilized to help defray regional transportation operation expenses including additional items, such as payroll, cleaning supplies and PPE.

**ACTIVITIES TO BE PERFORMED:** KCATA, the Kansas City Streetcar Authority, Johnson County Kansas, Unified Government of Wyandotte County, Kansas/Kansas City Kansas, and the City of Independence, Missouri provide public transportation in the Kansas City metropolitan area under RideKC. These regional transit partners plan to use the ARP funds to support operations including cleaning supplies and personal protective equipment to prevent, prepare for, and respond to COVID-19.

**EXPECTED OUTCOMES:** Funding to support operations will ensure service reliability, on-time performance and safety for the customers.

**INTENDED BENEFIICIARIES:** This project will benefit public transportation riders who utilize the public transportation services provided in the Kansas City metropolitan area, the Missouri counties of Jackson and Clay and Kansas Counties of Wyandotte County and Johnson.

**SUBRECIPIENT ACTIVITIES:** The regional transportation providers will utilize funds to support regional operations as they provide convenient, safe and reliable transportation in their respective service areas.

**PROJECT LOCATION:** Kansas City and surrounding metropolitan area and the counties of Jackson, Clay in Missouri, Wyandotte and Johnson Counties in the State of

Kansas.

**TRANSIT PROVIDERS IN AREA:**

The Kansas City Area Transportation Authority (KCATA) is the bi-state Regional Transit Authority created in 1965. KCATA is responsible for public transportation in the Kansas City urbanized area with a seven-county jurisdiction - Cass, Clay, Jackson, and Platte in Missouri, and Johnson, Leavenworth, and Wyandotte in Kansas. KCATA is responsible for the provision of fixed-route, Bus Rapid Transit (BRT), flex-route, and complimentary paratransit public transportation in the region. KCATA operates from a single maintenance and administration facility in Kansas City, Missouri.

Johnson County, Kansas Transportation and IndeBus operated by the City of Independence, Missouri systems are managed by KCATA, and The Bus operated by Unified Government of Wyandotte County/Kansas City, Kansas are other transit providers that feed into and provide similar service in the Kansas City urbanized area.

**Funding Summary:**

This application utilizes the following ARP Act funding.

KCATA Direct Allocation \$50,078,322

Kansas City Streetcar Authority \$1,733,576

Johnson County, Kansas \$7,704,555

Unified Government \$4,785,776

Independence \$1,749,322

Total Agency Allocation \$66,051,551

\*Allocation is subject to change based on regional needs.

Per the ARP Act of 2021, the grant requests represent 100% federal share. No local match is required.

The project(s) included in this application contains only operations with no substantial functional, location, or capacity change. Therefore, per ARP requirements, no Statewide Transportation Improvement Program (STIP) or Transportation Improvement Plan (TIP) documentation is needed.

If applicable, "As of December 27, 2020, KCATA certifies to FTA that the recipient does not have any furloughed employees." The Pre-Award Authority start date for ARP funding is January 20, 2020.

KCATA agrees that if it receives Federal funding from the Federal Emergency Management Agency (FEMA) or through a pass-through entity through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a different Federal agency, or insurance proceeds for any portion of a project activity approved for FTA funding under this Grant Agreement, it will provide written notification to FTA, and reimburse FTA for any Federal share that duplicates funding provided by FEMA, another Federal agency, or an insurance company.

The funding source for this grant application is: 5307-6 - 5307 Urbanized Area Formula (ARP Act)

Start Date: January 20, 2020

End Date: December 31, 2026

The CCR expiration dates:

KCATA - March 18, 2023

Johnson County Kansas December 20, 2022

Unified government of Wyandotte Kansas/Kansas City Kansas -December 10, 2022;

City of Independence Missouri -August 15, 2022

Kansas City Streetcar Authority January 7, 2023

Indirect Costs Will NOT be applied to this application and its scope of work.

This grant will not support any research or development projects.

A copy of the FY 2022 Master Agreement will be retained on file.

A copy of the FY 2022 Certifications and Assurances will be attached to this application as soon as it becomes available.

Research and Development: This award does not include research and development activities.

Indirect Costs: This award does not include an indirect cost rate.

Suballocation Funds: Recipient organization is the Designated Recipient and can apply for and receive these apportioned funds.

Pre-Award Authority: This award is using Pre-Award Authority.

## **Award Budget**

Total Award Budget: \$66,051,551.00

Amount of Federal Assistance Obligated for This FTA Action (in U.S. Dollars): \$66,051,551.00

Amount of Non-Federal Funds Committed to This FTA Action (in U.S. Dollars): \$0.00

Total FTA Amount Awarded and Obligated (in U.S. Dollars): \$66,051,551.00

Total Non-Federal Funds Committed to the Overall Award (in U.S. Dollars): \$0.00

## Award Budget Control Totals

(The Budget includes the individual Project Budgets (Scopes and Activity Line Items) or as attached)

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	\$66,051,551
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
<b>Total Eligible Cost</b>			<b>\$66,051,551</b>

(The Transportation Development Credits are not added to the amount of the Total Award Budget.)

## U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

DOL Decision: DOL Concur - Certified

DOL Review Date: 7/22/2022

DOL Certification Date: 7/22/2022

## Special Conditions

There are no special conditions.

## FINDINGS AND DETERMINATIONS

By signing this Award on behalf of FTA, I am making all the determinations and findings required by federal law and regulations before this Award may be made.

## FTA AWARD OF THE GRANT AGREEMENT

Awarded By:

Mokhtee Ahmad  
Regional Administrator  
FEDERAL TRANSIT ADMINISTRATION  
U.S. DEPARTMENT OF TRANSPORTATION  
Contact Info: mokhtee.ahmad@dot.gov  
Award Date: 7/22/2022

## **EXECUTION OF THE GRANT AGREEMENT**

Upon full execution of this Grant Agreement by the Recipient, the Effective Date will be the date FTA or the Federal Government awarded Federal assistance for this Grant Agreement.

By executing this Grant Agreement, the Recipient intends to enter into a legally binding agreement in which the Recipient:

- (1) Affirms this FTA Award,
- (2) Adopts and ratifies all of the following information it has submitted to FTA:
  - (a) Statements,
  - (b) Representations,
  - (c) Warranties,
  - (d) Covenants, and
  - (e) Materials,
- (3) Consents to comply with the requirements of this FTA Award, and
- (4) Agrees to all terms and conditions set forth in this Grant Agreement.

Executed By:  
*Hector Cortez*  
*Comptroller*  
KANSAS CITY AREA TRANSPORTATION AUTHORITY  
7/26/2022

## **Appendix B**

### **Contract Conditions/Federal Requirements**

#### **1. BREACH OF CONTRACT; REMEDIES**

- A. If SUBRECIPIENT shall fail, refuse or neglect to comply with the terms of this AGREEMENT, such failure shall be deemed a total breach of AGREEMENT and the SUBRECIPIENT shall be subject to legal recourse by KCATA, plus costs resulting from failure to comply including the KCATA's reasonable attorney fees, whether or not suit be commenced.
- B. The duties and obligations imposed by this AGREEMENT and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law or equity. No action or failure to act by KCATA shall constitute a waiver of any right or duty afforded under this AGREEMENT, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

#### **2. CIVIL RIGHTS**

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S. C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the SUBRECIPIENT agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, age, sex, sexual orientation, gender identity, national origin or disability. In addition, the SUBRECIPIENT agrees to comply with provisions of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for FTA recipients," 05-13-07 and other applicable Federal implementing regulations and other implementing regulations that the Federal Transit Administration (FTA) may issue.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this AGREEMENT:
  - 1. Race, Color, Creed, National Origin or Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42. U.S.C. §2000e, *et seq.*, and Federal transit laws at 49 U.S.C. §5332, the SUBRECIPIENT agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor" 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the AGREEMENT. The

SUBRECIPIENT agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, age, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements FTA may issue.

2. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S.EEOC) regulations, “Age Discrimination in Employment Act,” 29 CFR part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, and U. S. Department of Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 CFR part 90, and Federal transit law at 49 U.S.C. §5332, the SUBRECIPIENT agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements FTA may issue.
  3. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et eq.*, and the Federal transit law at 49 U.S.C. § 5332, the SUBRECIPIENT agrees that it will not discriminate against individuals on the basis of disability. In addition, the SUBRECIPIENT agrees to comply with any implementing requirements FTA may issue.
- C. **ADA Access Requirements.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112 and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the SUBRECIPIENT agrees that it will comply with the requirements of U.S. Department of Transportation regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37; and U.S. Department of Transportation regulations, “Americans with Disabilities Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38, pertaining to facilities and equipment to be used in public transportation. In addition, the SUBRECIPIENT agrees to comply with the requirements of 49 U.S.C. § 5301 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. SUBRECIPIENT also agrees to comply with any implementing requirements FTA may issue.
- D. **Environmental Justice.** Except as the Federal Government determines otherwise in writing, the SUBRECIPIENT agrees to promote environmental justice by:



1. Following and facilitating compliance with Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 42 U.S.C. § 4321 note, and
  2. Following DOT Order 5620.3, “Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997.
- E. SUBRECIPIENT understands that it is required to include this Article in all SUB-AGREEMENTS. Failure by the SUBRECIPIENT to carry out these requirements or to include these requirements in any SUB-AGREEMENT is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the KCATA deems appropriate, including but not limited to withholding monthly progress payments and/or disqualifying the SUBRECIPIENT from future awards as non-responsible.

### **3. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

- A. This AGREEMENT is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBEs) is 10 percent. KCATA’s overall goal for DBE participation is 15.0 percent. A separate contract goal **has not been** established for this AGREEMENT.
- B. The SUBRECIPIENT shall not discriminate on the basis of race, color, creed, sex, sexual orientation, gender identity, national origin, disability or age in the performance of this AGREEMENT. The SUBRECIPIENT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted AGREEMENT. Failure by the SUBRECIPIENT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as KCATA deems appropriate. Each subcontract the SUBRECIPIENT signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The SUBRECIPIENT may not substitute, remove or terminate a DBE subcontractor without KCATA’s prior written consent. Written consent of termination may be given if the SUBRECIPIENT has demonstrated good cause. Before submitting its request to terminate or substitute a DBE subcontractor, the SUBRECIPIENT must give notice in writing to the DBE subcontractor, with a copy to KCATA, of its intent to request to terminate and/or substitute, and the reason for the request. The SUBRECIPIENT must give the DBE five days to respond to the SUBRECIPIENT’s notice and advise KCATA and the SUBRECIPIENT of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCATA should not approve the SUBRECIPIENT’s action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.

### **4. EMPLOYEE PROTECTIONS**

- A. **Public Transportation Employee Protective Arrangements (Standard).** To the extent that the FTA determines that transit operations are involved, the SUBRECIPIENT agrees to carry out the transit operations work on this AGREEMENT in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this AGREEMENT and to meet guidelines established in 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. Department of Labor to the FTA, the employee protective requirements of 49 U.S.C. § 5333(b) (formerly known as Section 13(c) of the Federal Transit Act), and the U.S. Department of Labor certification applicable to the grant from which Federal assistance is provided to support work on this AGREEMENT. The SUBRECIPIENT agrees to carry out that work in compliance with the conditions stated in that U.S. Department of Labor certification which is incorporated in and made part of this AGREEMENT.
- B. **Public Transportation Employee Protective Arrangements (for Elderly and Disabled Transportation).** If the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements are necessary or appropriate on work performed under this AGREEMENT, the SUBRECIPIENT agrees to comply with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C § 5333(b) (formerly known as Section 13(c) of the Federal Transit Act), U.S. Department of Labor (“DOL”) guidelines established in 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL’s letter of certification to the FTA, applicable to the grant from which Federal assistance is provided to support work on this AGREEMENT. The SUBRECIPIENT agrees to perform transit operations in connection with the underlying AGREEMENT in compliance with the conditions stated in that U.S. DOL letter. The SUBRECIPIENT agrees to comply with U.S. DOL’s certification of public transportation employee protective arrangements for the Project, dated as displayed on the underlying Grant Agreement.

## 5. ENVIRONMENTAL REGULATIONS

- A. **Clean Water.** The SUBRECIPIENT agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251-1387 *et seq.* The SUBRECIPIENT agrees to report, and require each subcontractor at every tier receiving more than \$100,000 from this AGREEMENT to report, any violation of these requirements resulting from any project implementation activity to KCATA. The SUBRECIPIENT understands that KCATA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office.
- B. **Energy Conservation.** The SUBRECIPIENT agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The SUBRECIPIENT agrees to include the requirements of this clause in all subcontracts under this AGREEMENT.

- C. **Clean Air Requirements for Transit Operations.** The U.S. EPA imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the SUBRECIPIENT agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project including all applicable standards, orders, or regulations issued under Section 306 of the Clean Air Act, as amended, 42 U.S.C. Section 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. Sections 7401 through 7671q.: “Control of Air Pollution from Mobile Sources,” 40 CFR Part 85; “Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines,” 40 CFR Part 86; and “Fuel Economy of Motor Vehicles,” 40 CFR Part 600. The SUBRECIPIENT agrees to report, and to require each subcontractor at any tier receiving more than \$100,000 from this AGREEMENT to report, any violation of these requirements resulting from any project implementation activity to KCATA. KCATA will, in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office.
- D. **Recovered Materials/Recycled Products.** To the extent practicable and economically feasible, the SUBRECIPIENT agrees to provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient. Examples of such products may include, but are not limited to, products described in U.S. Environmental Protection Agency guidelines at 40 CFR Part 247, which implements Section 6002 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6962), and Executive Order 12873. The Contractor also agrees to include these requirements in each subcontract at every tier receiving more than \$10,000.

## 6. FEDERAL REQUIREMENTS

- A. **Changes.** SUBRECIPIENT shall at all times be aware and comply with all applicable Federal Transit Administration regulations, policies, procedures and directives, including without limitation, those listed directly or by reference in the AGREEMENT between KCATA and FTA (FTA MA (24) dated October 1, 2017), as they may be amended or promulgated from time to time during the term of this AGREEMENT. SUBRECIPIENTS’ failure to so comply shall constitute a material breach of this AGREEMENT. SUBRECIPIENT agrees to include this clause in all subcontracts at any tier. It is further agreed that the clause shall not be modified, except to identify the subcontractors who will be subject to its provisions.
- B. **Debarment and Suspension Certification.**
1. The SUBRECIPIENT shall comply and facilitate compliance with U.S. DOT regulations “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget & U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180.
  2. The SUBRECIPIENT, its principals and any affiliates, shall certify that it is not included in the “U.S. General Services Administration’s List of Parties Excluded from Federal

Procurement or Non-procurement Programs,” as defined at 49 CFR Part 29, Subpart C.

3. The SUBRECIPIENT agrees to refrain from awarding any subcontract of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain a similar certification from any subcontractor (at any tier) seeking a contract exceeding \$25,000.
4. The SUBRECIPIENT agrees to provide KCATA a copy of each conditioned debarment or suspension certification provided by a prospective subcontractor at any tier, and to refrain from awarding a subcontract with any party that has submitted a conditioned debarment or suspension certification until FTA approval is obtained.
5. The SUBRECIPIENT agrees to collect a debarment and suspension certification from the prospective third party contractor, or include a clause in the third party contract requiring disclosure and check the Excluded Parties List System (EPLS) that is now a part of the System for Awards Management (SAM) located at [www.sam.gov](http://www.sam.gov).

C. **Disclaimer of Federal Government Obligation or Liability.** The SUBRECIPIENT, and any subcontractors acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this AGREEMENT, absent the express written consent by the Federal Government, the Federal Government is not a party to this AGREEMENT and shall not be subject to any obligations or liabilities to the SUBRECIPIENT, or any other party (whether or not a party to this AGREEMENT) pertaining to any matter resulting from this AGREEMENT. It is further agreed that the clause shall be included in each subcontract and shall not be modified, except to identify the subcontractor who will be subject to its provision.

D. **Incorporation of Federal Transit Administration (FTA) Terms.** The provisions in this AGREEMENT include certain standard terms and conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F or any revision thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the AGREEMENT. SUBRECIPIENT shall not perform any act, fail to perform any act, or refuse to comply with any KCATA requests that would cause KCATA to be in violation of the FTA terms and conditions. The SUBRECIPIENT agrees to include this clause in all subcontracts at any tier. It is further agreed that the clause shall not be modified, except to identify the subcontractors who will be subject to the provision.

E. **Annual Audits.** The SUBRECIPIENT agrees to have an annual audit conducted in accordance with 2 CFR 200 (previously referred to as OMB Circular A-133) if Federal award expenditures are \$750,000 or more in the past fiscal year. A copy of the 2 CFR 200 required audit is to be submitted to the KCATA within thirty (30) days of receiving the audit report or nine (9) months after the end of the audit period, whichever occurs earlier.

- 1) The SUBRECIPIENT shall permit the KCATA and the FTA, or any of their representatives or designees, to inspect all vehicles, facilities and equipment purchased by the SUBRECIPIENT as part of the project, all transportation services rendered by

the SUBRECIPIENT by the use of such vehicles, facilities and equipment, and all relevant project data and records.

- 2) In addition, the KCATA and the FTA, or any of their representatives or designees, shall have full access to and the right to examine, during normal business hours and as often as the KCATA or the FTA deems necessary, all of the SUBRECIPIENT's records with respect to all matters covered by this Agreement. Such rights shall last for three (3) years beyond the longer of the following periods: (a) the period during which any property acquired with funds provided pursuant to this Agreement is used for purposes for which the federal financial assistance is extended, or for another purpose involving the provisions of similar services or benefits; or (b) the period during which the SUBRECIPIENT retains ownership or possession of such property. All documents, papers, accounting records and other material pertaining to costs incurred in connection with the project shall be retained by the SUBRECIPIENT for three (3) years from the date of final payment to facilitate any audits or inspections.

**F. Federal Funding Accountability and Transparency Act of 2006.** The SUBRECIPIENT shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This AGREEMENT is subject to the award terms within 2 CFR Part 170.

**G. National Intelligent Transportation Systems Architecture and Standards.** The SUBRECIPIENT agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and SUBRECIPIENT agrees to comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 *Fed. Reg.* 1455, January 8, 2001, and any further implementing directives, except to the extent FTA determines otherwise in writing.

## **7. FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

A. The SUBRECIPIENT acknowledges that the provisions of 49 U.S.C. Section 5323(l) extends the criminal fraud provisions of 18 U.S.C. Section 1001 to all certificates, submissions, or statements made in connection with any program financed under the Federal transit program. In addition, the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Sections 3801 *et seq.*, and DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to any false or fraudulent statement or claim made under the Federal transit program.

B. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the Project. Upon execution of the underlying AGREEMENT, the SUBRECIPIENT certifies and affirms the truthfulness and accuracy of any statement it has made, it makes, or may make pertaining to the project covered under this AGREEMENT. In addition to other penalties that may be applicable, the SUBRECIPIENT further acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification,

the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBRECIPIENT to the extent the Federal Government deems appropriate.

- C. The SUBRECIPIENT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with this AGREEMENT, the Government reserves the right to impose on the SUBRECIPIENT the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n) (1), to the extent the Federal Government deems appropriate.
- D. The SUBRECIPIENT agrees to include these clauses in each subcontract under this AGREEMENT, and it is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **8. GOVERNING LAW**

This AGREEMENT shall be deemed to have been made in, and be construed in accordance with, the laws of the State of Missouri. Any action of law, suit in equity, or other judicial proceeding to enforce or construe this AGREEMENT, respecting its alleged breach, shall be instituted only in the Circuit Court of Jackson County, Missouri.

## **9. HEADINGS**

The headings included in this AGREEMENT are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of intent of any provision, and shall not be construed to affect, in any manner, the terms and provisions hereof of the interpretation or construction thereof.

## **10. INDEMNIFICATION**

- A. To the fullest extent permitted by law, SUBRECIPIENT agrees to and shall indemnify, defend and hold harmless KCATA, its Commissioners, officers and employees from and against any and all claims, losses, damages, causes of action, suits, liens and liability of every kind, (including all expenses of litigation, expert witness fees, court costs and attorney's fees whether or not suit be commenced) by or to any person or entity (collectively the "Liabilities") arising out of, caused by, or resulting from the acts or omissions of SUBRECIPIENT, SUBRECIPIENT'S subcontractors, or sub-subcontractors, their respective agents or anyone directly or indirectly employed by any of them in performing work under this AGREEMENT, and provided such claim is attributable to bodily injury, sickness, disease or death of any person, or injury to or destruction of property, including consequential damages, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder, so long as such Liabilities are not caused by the sole negligence or willful misconduct of a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

- B. In claims against any person or entity indemnified under this section, by an employee or SUBRECIPIENT, subcontractor or sub-subcontractor or anyone directly or indirectly employed by any of them, the indemnification obligation shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the SUBRECIPIENT, SUBRECIPIENT'S subcontractor, or sub-subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts. If any action at law or suit in equity is instituted by any third party against SUBRECIPIENT arising out of or resulting from the acts of SUBRECIPIENT in performing work under this AGREEMENT, SUBRECIPIENT shall promptly notify KCATA of such suit.
- C. If any action at law or suit in equity is instituted by any third party against KCATA or its commissioners, officers or employees arising out of or resulting from the acts of SUBRECIPIENT, SUBRECIPIENT'S subcontractor or sub-subcontractor, their respective agents or anyone directly or indirectly employed by any of them in providing products, equipment or materials, or in performing work or services under this AGREEMENT, and if SUBRECIPIENT has failed to provide insurance coverage to KCATA against such action as required herein or otherwise refuses to defend such action, KCATA shall have the right to conduct and control, through counsel of its choosing, the defense of any third party claim, action or suit, and may compromise or settle the same, provided that KCATA shall give the SUBRECIPIENT advance notice of any proposed compromise or settlement.
- D. KCATA shall permit SUBRECIPIENT to participate in the defense of any such action or suit through counsel chosen by the SUBRECIPIENT, provided that the fees and expenses of such counsel shall be borne by SUBRECIPIENT. If KCATA permits SUBRECIPIENT to undertake, conduct and control the conduct and settlement of such action or suit, SUBRECIPIENT shall not consent to any settlement that does not include as an unconditional term thereof the giving of a complete release from liability with respect to such action or suit to KCATA. SUBRECIPIENT shall promptly reimburse KCATA for the full amount of any damages, including fees and expenses of counsel for KCATA, incurred in connection with any such action.

## **11. LOBBYING**

- A. The SUBRECIPIENT is bound by its certification to the Authority regarding the use of federal or non-federal funds to influence, or attempt to influence any federal officer or employee regarding the award, execution, continuation, or any similar action of any federal grant or other activities as defined in 31 U.S.C. 1352, 2 CFR § 200.450, 2 CFR part 200 Appendix II (J) and 49 CFR part 20. The SUBRECIPIENT agrees to comply with this requirement throughout the term of the AGREEMENT.
- B. The SUBRECIPIENT agrees to include these requirements in all subcontracts at all tiers exceeding \$100,000, under this AGREEMENT and to obtain the same certification and disclosure from all subcontractors (at all tiers).

## **12. TRANSIT ASSET MANAGEMENT**

Unless FTA determines otherwise in writing, the SUBRECIPIENT agrees to develop a Transit Asset Management Plan that complies with the Federal transit laws, specifically 49 U.S.C. § 5326 and 5337(a)(4), as amended by MAP-21, Federal regulations pertaining to the National Transit Asset Management System required to be issued by 49 U.S.C. § 5326(d), as amended by MAP-21, and Performance Measures and Targets required to be issued by 49 U.S.C. § 5326(c)(1), as amended by MAP-21, other applicable Federal laws and regulations.

### **13. INSURANCE**

- A. In addition to other insurance requirements that may apply, the SUBRECIPIENT agrees to comply with the flood insurance purchase provisions of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a(a), with respect to any Project activity involving construction having an insurable cost of \$10,000 or more, or an acquisition having an insurable cost of \$10,000 or more. It will comply with the insurance requirements normally imposed by its State and local laws, regulations, and ordinances, except as the Federal Government determines otherwise in writing.
- B. The SUBRECIPIENT agrees to include these requirements in all subcontracts at all tiers exceeding \$100,000, under this AGREEMENT and to obtain the same certification and disclosure from all subcontractors (at all tiers).

### **14. PROHIBITED INTERESTS**

- A. No board member, officer, employee or agent of SUBRECIPIENT, KCATA or of a local public body who has participated or will participate in the selection, award, or administration of this AGREEMENT, nor any member of his or her immediate family, business partner or any organization which employs, or intends to employ any of the above during such period, shall have any interest, direct or indirect, in this AGREEMENT or the proceeds thereof, to any share or part of this AGREEMENT, or to any benefit arising there from. This shall not be construed to prevent any such person from owning stock in a publicly owned corporation.
- B. No member of, or delegates to, the Congress of the United States shall be admitted to any share or part of the AGREEMENT, or to any benefit arising there from. This shall not be construed to prevent any such person from owning stock in a publicly-owned corporation.

### **15. RECORD RETENTION AND ACCESS**

- A. The SUBRECIPIENT agrees that, during the course of this AGREEMENT and any extensions thereof, and for three years thereafter, it will maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to this AGREEMENT in accordance with 2 CFR § 200.33, 49 U.S.C. § 5325(g) and 49 CFR part 633. In the event of litigation or settlement of claims arising from the performance of this AGREEMENT, the SUBRECIPIENT agrees to maintain same until such litigation, appeals, claims or exceptions related thereto have been disposed of.
- B. The SUBRECIPIENT shall permit KCATA, the Federal Transit Administration and



Department of Transportation officials, the Comptroller General of the United States, to inspect all work, materials, construction sites, payrolls, and other data and records, and to audit the books, records, and accounts of the SUBRECIPIENT relating to its performance under this AGREEMENT.

- C. The SUBRECIPIENT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

## **16. PROCUREMENT**

- A. The SUBRECIPIENT agrees to comply with the requirements of 49 U.S.C. chapter 53 and other applicable Federal laws and regulations now in effect or later that affect its third-party procurements.
- B. The SUBRECIPIENT agrees to comply with U.S. DOT third party procurement regulations, specifically 49 CFR §§ 19.40 – 19.48, 49 U.S.C. 53, the Uniform Guidance (also referred to as the “Super Circular,” found at 2 CFR 200, replacing and superseding FTA’s Common Grant Rules found at 49 CFR 18), and other applicable Federal regulations that affect its third party procurements in effect now and as may be later amended and to follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” and amendments thereto, to the extent consistent with applicable Federal laws, regulations, and guidance, except as FTA determines otherwise in writing

## **17. SEAT BELT USE POLICY**

The SUBRECIPIENT is encouraged to comply with terms of Executive Order No. 13043 “Increasing Seat Belt Use in the United States” and is encouraged to include those requirements in each subcontract awarded for work relating to this Contract.

## **18. SEVERABILITY**

If any clause or provision of this AGREEMENT is held to be invalid illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this AGREEMENT shall continue in full force and effect. In lieu of each clause or provision of this AGREEMENT that is illegal, invalid, or unenforceable, there shall be added as a part of this AGREEMENT, a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

## **19. TERMINATION**

- A. **Termination for Convenience.** The KCATA may terminate this AGREEMENT, in whole or in part, at any time by written notice to the SUBRECIPIENT when it is in KCATA’s best interest. Upon such termination the SUBRECIPIENT shall be entitled to compensation for PROJECT activities in accordance with this AGREEMENT which were incurred prior to the effective date of the termination, but not exceeding the federal funds ceiling set forth in the AGREEMENT.

**B. Termination for Default.** If the SUBRECIPIENT fails to perform in the manner called for in the AGREEMENT, or if the SUBRECIPIENT fails to comply with any other provisions of the AGREEMENT, KCATA may terminate this AGREEMENT for default. Termination shall be effected by serving a notice of termination on the SUBRECIPIENT setting forth the manner in which the SUBRECIPIENT is in default. The SUBRECIPIENT will only be paid for services performed in accordance with the manner of performance set forth in the AGREEMENT.

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least forty-five (45) days in advance of such termination date.

**C. Funding Contingency.** This AGREEMENT is subject to financial assistance provided by the U.S. Department of Transportation; the SUBRECIPIENT agrees that withdrawal or termination of such financial assistance by the U.S. DOT may require KCATA to terminate the Agreement.

**D. Opportunity to Cure.** KCATA in its sole discretion may, in the case of a termination for breach or default, allow the SUBRECIPIENT an appropriately short period of time in which to cure the defect. In such case, the written notice of termination will state the time period in which cure is permitted and other appropriate conditions. If SUBRECIPIENT fails to remedy to KCATA's satisfaction the breach or default of any of the terms, covenants, or conditions of this AGREEMENT within the time period permitted, KCATA shall have the right to terminate the AGREEMENT without any further obligation to SUBRECIPIENT. Any such termination for default shall not in any way operate to preclude KCATA from also pursuing all available remedies against SUBRECIPIENT and its sureties for said breach or default.

**E. Waiver of Remedies for any Breach.** In the event that KCATA elects to waive its remedies for any breach by SUBRECIPIENT of any covenant, term or condition of this AGREEMENT, such waiver by KCATA shall not limit KCATA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this AGREEMENT.

## **20. TEXTING WHILE DRIVING AND DISTRACTED DRIVING**

Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. Section 402 note, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, KCATA encourages its SUBRECIPIENTS to promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to encourage each subcontractor to do the same.

## **21. TRANSIT OPERATION RESTRICTIONS**

**A. Charter Service Operation.** The SUBRECIPIENT agrees to comply with 49 U.S.C. § 5323(d) and FTA regulations, "Charter Service," 49 CFR Part 604, which provide that SUBRECIPIENTS and SUBRECIPIENTS of FTA assistance are prohibited from providing

charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service agreement required by these regulations is incorporated by reference and made part of this AGREEMENT.

B. **Buy America** – The SUBRECIPIENT agrees to abide by the provisions of the Buy America requirements in 49 U.S.C. § 5323(j), 49 CFR Subtitle B, Part 661.

C. **Drug Use and Testing and Alcohol Misuse and Testing.\*** SUBRECIPIENTS providing services involving the performance of safety sensitive activities must comply with 49 U.S.C. Section 5331 and FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR Part 655.

1. The SUBRECIPIENT agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655 of the United States Department of Transportation and Federal Transit Administration Regulations.
2. The SUBRECIPIENT agrees to produce any documentation necessary to establish its compliance with Parts 40 and Part 655, and permit any authorized representative of the United States Department of Transportation, the Federal Transit Administration or KCATA, to inspect all collection and testing facilities, to review all records associated with the implementation of the drug and alcohol testing program and audit and review the testing process as required under 49 CFR Part 40 and Part 655.
3. If the SUBRECIPIENT is unwilling or unable to comply with the regulations, KCATA reserves the right to discontinue using the SUBRECIPIENT for safety-sensitive duties. SUBRECIPIENTS that bid on safety-sensitive work will be considered non-responsive if they do not have or are not able to supply documentation that a DOT/FTA compliant drug and alcohol-testing program has been established.

D. **Substance Abuse/Drug-Free Workplace.** The SUBRECIPIENT to agrees to comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103 *et seq.*, the U.S. DOT regulations, “Government-wide Requirements for Drug-Free Workplace (Financial Assistance),” 49 CFR part 32, and any amendments to those regulations when they are issued, and follow and facilitate compliance with U.S. OMB guidance, “Government-wide Federal Transit Laws,” specifically 49 U.S.C. § 5331, as amended by MAP-21.

E. **School Bus Operations.** The SUBRECIPIENT will not use FTA assisted facilities or equipment to support exclusive school bus operations except as permitted by 49 U.S.C. § 5323(f) or (g) and FTA regulations “School Bus Operations,” 49 CFR Part 605, to the extent consistent with 49 U.S.C § 5323 (f) or (g).

F. **Protection of Animals.** A third-party contractor providing services involving the use of animals must comply with the Animal Welfare Act, 7 U.S.C. Sections 2131 *et seq.*, and Department of Agriculture regulations, “Animal Welfare,” 9 CFR Subchapter A, Parts 1, 2, 3,

and 4

**G. Reporting Requirements.**

1. The SUBRECIPIENT agrees to provide quarterly reports specified in paragraph 5 of this AGREEMENT. In addition, KCATA is required to report to the FTA annually program performance measures and activities. Accordingly, the SUBRECIPIENT agrees to provide KCATA with any additional or follow-up information reasonably requested by KCATA, in order to meet KCATA's FTA reporting requirements
2. The SUBRECIPIENT agrees to collect and maintain all data, using proper procedures, requested by KCATA for compliance with the "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630, which includes various reports required for FTA's national transit database. The SUBRECIPIENT shall submit the requested information to KCATA no later than April 1st for the previous calendar year.
3. SUBRECIPIENT's failure to properly collect, maintain, and submit the data will be considered a breach of contract. In addition, the SUBRECIPIENT shall be liable to KCATA for any federal funds not allocated to KCATA due to a lack of, or deficient data, or improper procedures **used by the SUBRECIPIENT.**

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\* **Drug and Alcohol Testing.** SUBRECIPIENTs that receive only Section 5310 program assistance are not subject to FTA's drug and alcohol testing rules but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver's licenses (49 CFR Part 382).