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**KANSAS CITY AREA TRANSPORTATION AUTHORITY**  
**Procurement Department**  
**1350 East 17<sup>th</sup> Street**  
**Kansas City, MO 64108**

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**Invitation for Bids**

**Bid No. 17-6006-23**

**Purchase of Bulk Antifreeze and Diesel Exhaust Fluid**

Date: August 9, 2017

Contact: Jessica Johnson

Telephone: (816) 346-0248

Fax: (816) 346-0336

Email: [jjohnson@kcata.org](mailto:jjohnson@kcata.org)

**Bid #17-6006-23**

**Purchase of Bulk Antifreeze and Diesel Exhaust Fluid**

**INVITATION FOR BIDS (IFB)**

The Kansas City Area Transportation Authority (KCATA) is a bi-state agency offering mass transit service within the greater Kansas City metropolitan area. KCATA is requesting the services of qualified contractors to provide delivery of bulk antifreeze and bulk diesel exhaust fluid.

**Summary/Objective:**

The KCATA requires qualified contractors to provide delivery of bulk antifreeze and bulk diesel exhaust fluid (DEF) and intends to award a requirements contract. Deliveries may not be required on a constant, continuous basis, but rather on an as-needed basis during the contract term. The KCATA is not obligated to purchase antifreeze and DEF until a work order is issued.

**Bid Questions/Comments:**

Any questions, comments or requests for clarification are due from bidders by **4:00 p.m. on August 18, 2017** and must be submitted in writing to Jessica Johnson, Senior Buyer, at [jjohnson@kcata.org](mailto:jjohnson@kcata.org) and will anticipate having an answer by close of business **August 23, 2017**. KCATA's response to these submissions will be in the form of an Addendum.

**Bid Closing and Submission:**

Bids must be received with all required submittals as stated in the IFB, no later than **2:00 p.m. on August 30, 2017**. Bids received after time specified shall not be considered for award. Bids received via facsimile (fax) or electronic mail (e-mail) shall not be considered. Bids not meeting specified delivery and method of submittal will not be opened nor considered responsive.

Bids submitted must be addressed and delivered to KCATA at the following address. This is also the address to be used for all communication in connection with this IFB:

Kansas City Area Transportation Authority  
Shipping and Receiving Department  
Attn: Jessica Johnson, Procurement  
1350 East 17<sup>th</sup> Street  
Kansas City, Missouri 64108

Submission of a bid shall constitute a firm offer to the KCATA for ninety (90) days from the date of IFB closing.

**Notes to Vendors:**

It is the policy of KCATA to ensure that Minority-Owned Businesses (MBEs), Women-Owned Businesses (WBEs), Small Businesses (SBEs) and Disadvantaged Businesses (DBEs) have an equal opportunity to participate on KCATA's contracts. MBEs/WBEs/SBEs and DBEs are encouraged to submit bids as prime contractors, subcontractors, or through a joint venture/partnership.

No person or entity submitting a bid in response to this IFB, nor any officer, employee, agent, representative, relative or consultant representing such a person (or entity) may contact through any means, or engage in any

discussion concerning the award of this contract with any member of KCATA's Board of Commissioners or any employee of KCATA during the period beginning on the date of issue and ending on the date of the selection of a Contractor. Any such contact would be grounds for disqualification of the proposer. Contact with KCATA's Procurement Department staff during such time period must be limited to site visits, technical questions and discussions.

Denise Adams  
Sr. Manager of Procurement

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**NO BID REPLY FORM**

**BID #17-6006-23  
Purchase of Bulk Antifreeze and Diesel Exhaust Fluid**

To assist us in obtaining good competition on our Invitation For Bids, we ask that each firm that has received an invitation, but does not wish to propose, state their reason(s) below and return in a clearly marked envelope. Your envelope should include "Bid #17-6006-23" on the outside of the envelope.

This information will not preclude receipt of future invitations unless you request removal from the Bidders' List by indicating below.

*Unfortunately, we must offer a "No Proposal" at this time because:*

- \_\_\_ 1. We do not wish to participate in the bid process.
  
- \_\_\_ 2. We do not wish to propose under the terms and conditions of the Invitation for Bid document. Our objections are:  
  
\_\_\_\_\_
  
- \_\_\_ 3. We do not feel we can be competitive.
  
- \_\_\_ 4. We do not provide the services on which Bids are requested.
  
- \_\_\_ 5. Other: \_\_\_\_\_

\_\_\_ We wish to remain on the Bidders' list for these services.

\_\_\_ We wish to be removed from the Bidders' list for these services.

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE

**SECTION 1**  
**BID SCHEDULE**

IFB Issued/Advertised	8/9/17
Deadline for Bidder Questions, Comments, & Requests for Clarification	8/18/17
KCATA Response to Questions	8/23/17
Bid Closing Location: 1350 E 17 <sup>th</sup> Street, KCMO 64108 Building 1, Large Conference Room	8/30/17 @ 2:00 pm
Contract Award (Anticipated)	September 2017

**SECTION 2**  
**SCOPE OF WORK/TECHNICAL SPECIFICATIONS**

**A. Purpose and Background Information:**

1. The Kansas City Area Transportation Authority (KCATA) provides public transportation services in the Kansas City metropolitan area. KCATA is requesting bids for purchase of bulk antifreeze and bulk diesel exhaust fluid (DEF) on an as-needed basis.
2. The KCATA has regional management and cooperative agreements with other transit agencies within the region including Johnson County, Kansas; Kansas City Streetcar Authority; City of Independence, Missouri; and Unified Government/Wyandotte County, Kansas.

**B. Term:**

The term of this agreement shall be for a period of one (1) year from date of contract award. The KCATA shall have the option to renew the contract annually for up to one (1), one (1) year period. Work in process prior to expiration of the Agreement shall be completed and as construed by KCATA to be within the “contract term”.

**C. Estimated Quantities:**

The quantities indicated in this IFB are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. The estimates do not indicate single order amounts unless otherwise stated. The KCATA makes no guarantees about single order quantities or total aggregate order quantities. The KCATA estimates total annual quantities of 5,000 gallons of bulk antifreeze and 10,500 gallons of bulk diesel exhaust fluid.

**D. General Requirements:**

Contractor shall deliver bulk antifreeze and bulk DEF, at specified times of order, to KCATA’s bulk tank farm at 1350 East 17<sup>th</sup> Street, Kansas City, Missouri 64108.

Prices shall include delivery to aforementioned address and remained fixed for the duration of the contract term.

**E. Technical Specifications:**

Bulk Antifreeze shall include at a minimum the following:

- Single-phase, ethylene glycol-based antifreeze coolant
- Total glycols wt.% 94.0 minimum
- Color green
- Premium quality, low-silicate, all-purpose coolant for use in automotive engines, particularly those containing aluminum alloys, as well as for heavy-duty diesel engines
- Meets or exceeds the stringent aluminum corrosion protection requirements of major car manufacturers
- Concentration of silicate shall be in compliance with Cummins and other heavy-duty diesel engine manufacturers’ silicate requirements
- Must provide antifoam properties, rust and corrosion protection for brass, copper, solder, steel and cast iron
- Must mix readily with clean tap water, compatible with cooling system chemical type filters and supplemental additives
- Meets or exceeds the requirements of: ASTM D3306 (including ASTM D434), ASTM D4985, SEA J1034, Federal Specification A-A-870, Truck Maintenance Council of the American

- Trucking Association RP-302A and the American Association of motor Vehicle Administrators
- Meets or exceeds the Original Equipment Manufacturers' requirements: J.I. Case JIC-501, Chrysler MIS-7170, cummins 85T8-2, Ford ESE-M97B44-A and General Motors GM 1825M, GM 1899M
- Meets or exceeds the performance requirements of the Original Equipment Manufacturers: John Deere H5B, Detroit Diesel 7SE298, Freightliner 48-2280 and General Motors GM 6038M

Bulk Diesel Exhaust Fluid (DEF) shall include at a minimum the following:

- Colorless, clear liquid with no to slight ammonia odor
- 100% water soluble
- 213°F Boiling point
- 12°F Crystallization point
- 9.09 pounds per gallon
- Vapor density greater than 0.6 H O
- Evaporation rate less than 1

Contractor shall comply with all applicable and current rules, regulations and ordinances as set forth by the Environmental Protection Agency (EPA), the Missouri Department of natural Resources (MDNR), the Kansas Department of Health and Environment (KDHE), the Federal Transportation Authority (FTA), the Department of Transportation (DOT), and the City of Kansas City.

Contractor shall, without additional expense to KCATA, be responsible for obtaining any necessary licenses and permits, and for complying with all Federal, State and Municipal laws, codes and regulations applicable of the work performed under this contract.

**F. Inspection and Acceptance:**

Within ten (10) calendar days of receipt of each order, the contractor shall understand and agree that all supplies/products and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. KCATA shall have the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date (i.e., within five calendar days) by which replacements must be received.

**G. Vendor Qualifications:**

1. The successful contractor shall have at a minimum the following qualifications:
  - a. License to do business in the state of Kansas and in the state of Missouri.



**SECTION 3  
BID INFORMATION/INSTRUCTIONS**

**A. BID INSTRUCTIONS**

**1. Bid.**

The bid, along with all other accompanying documents and materials submitted by the bidder, will be deemed to constitute the entire bid. The bidder shall promptly furnish any additional information requested relative to its bid.

**2. Submittal.**

- a. Bids shall be submitted on the Bid Response Form (Attachment K) provided. **Bids submitted on any other form may be considered non-responsive and therefore rejected.** The authorized person signing the bid shall initial any erasures, corrections or other changes appearing on the Bid Response Form.
- b. Bids received after time specified shall not be opened or considered for award. Bids received via facsimile (fax) or electronic mail (e-mail) shall not be opened or considered.
- c. The Authority reserves the right to reject bids that alter the Bid Response Form or otherwise take exception to the bid requirements. Bidders may submit alternative bids along with a complete description of the proposed alternative; however the decision to accept or reject such alternative is entirely at the sole discretion of the Authority.

**3. Communications.**

In cases where communication is required between bidders and the KCATA, such as requests for information, instruction, clarification of specifications, etc. shall be forwarded directly to Jessica Johnson at [jjohnson@kcata.org](mailto:jjohnson@kcata.org) or via facsimile to 816.346.0336.

**4. Approved Equals.**

- a. Wherever brand, manufacturer, or product names are used, they are included only for the purposes of establishing a description of minimum quality of the requested item unless otherwise specified. This inclusion is not to be considered as advocating or prescribing the use of any particular brand or item or product. However, approved equals or better must be pre-approved by the Buyer. ***All requests for approved equals shall be received in writing by no later than August 18, 2017.***
- b. All requests for approved equals shall be received in writing. Any changes to the specifications will be made by addendum. Bidders may discuss the specification with the KCATA Procurement Department; however, requests for changes shall be written and documented.
- c. When an approved equal is requested, the Bidder shall demonstrate the quality of its product to the KCATA, and shall furnish sufficient technical data, test results, etc. to enable the KCATA to determine whether the Bidder's product is or is not equal to specifications.

**5. Protests.**

- a. The following protest procedures will be employed for this procurement. For the purposes of these procedures, "days" shall mean business days of KCATA administrative personnel which are days other than a Saturday, Sunday or legal holidays observed by KCATA for such administrative

personnel.

b. **Pre-Submittal.**

A pre-submittal protest is received prior to the bid due date. Pre-submittal protests must be received by the Authority, in writing and addressed to KCATA's Senior Manager of Procurement, no later than five (5) days before the bid closing date.

c. **Post-Submittal/Pre-Award.**

A post-submittal/pre-award protest is a protest against making an award and is received after receipt of bids but before award of a contract. Post-submittal protests must be received by the Authority, in writing and addressed to KCATA's Senior Manager of Procurement, no later than five (5) days after the bid closing date.

d. **Post-Award.**

Post-Award protests must be received by the Authority, in writing and addressed to KCATA's Senior Manager of Procurement, no later than five (5) days after the date of the Notice of Intent to Award.

e. The Senior Manager of Procurement shall respond in writing within five (5) days from the date of the written request. If the protester is not satisfied with the response of Senior Manager of Procurement, the protester may appeal in writing to KCATA's Chief Financial Officer within five (5) days from the date of the Senior Manager of Procurement's response.

f. The Chief Financial Officer will decide if the protest and the appeal (if any) have been given fair and reasonable consideration, or if additional consideration is warranted. The Chief Financial Officer's response will be provided within ten (10) days after receipt of the request. The Chief Financial Officer's decision is final and no further action on the protest shall be taken by the KCATA.

g. By written notice to all parties, KCATA's Senior Manager of Procurement may extend the time provided for each step of the protest procedures, extend the date of notice of award, or postpone the award of a contract if deemed appropriate for protest resolution.

h. Protesters shall be aware of the Federal Transit Administration's (FTA) protest procedures with the FTA Regional Office (ref: FTA Circular 4220.1F) If federal funding is involved, FTA will review protests from a third party only when: 1) a grantee does not have a written protest procedure or fails to follow its procedure, or fails to review a complaint or protest; or 2) violations of specific federal laws or regulations have occurred.

i. An appeal to FTA must be received by FTA's regional office within five (5) working days of the date the protester learned or should have learned of KCATA's decision. Protests shall be addressed to: Regional Administrator, FTA Region 7, 901 Locust, Room 404, Kansas City, Missouri, 64106.

6. **Bid Pricing.**

a. Bids shall be firm and final.

b. Bidders shall be responsible for furnishing and delivering new and complete materials and/or services to include the installation, assembly, accessories, personnel, training, warranty, and guarantee as specified to make this procurement complete.

c. The bid price shall include, as applicable, all items of labor, materials, tools, equipment, transportation, and other costs necessary to complete the manufacture, delivery, assembly, installation and drawings, if required, of the materials or services required in this procurement.

d. The quantities specified for purchase by KCATA are based upon the best available estimates, taking

into consideration the consumption during the past periods, and do not determine the actual amount the Authority may order during the contract period. The quantities are subject to change. Payment will be based on actual order quantities based on the unit rates quoted.

- e. It is the intention of the specifications to provide complete and accurate descriptions for materials and/or services required by the KCATA. Any materials or services omitted from the specifications that are clearly necessary for the completion of this bid, although not directly specified or called for in the specifications, shall be considered a portion of the bid. Bidder shall indicate the additional material and services it has determined to be required for this procurement.
- f. Bids shall indicate the unit price, extended to reflect the total bid. Any difference between the unit price correctly extended and the total price shall be resolved in favor of the unit price, except where the bidder clearly indicates that the total price is based on consideration of being awarded all items of the bid.
- g. Bid shall be net and shall reflect any available discount. Separate discount for timely payment shall not be given consideration in evaluating bids, except in the case of bids that end in a tie.
- h. The KCATA is exempt from payment of federal, state and local sales taxes, and such taxes shall not be included in the bid price. Nevertheless, the bidder is not exempt from these taxes when purchasing materials directly from its supplier.

#### 7. Omissions and Form of Contract.

- a. Omissions. The Contractor will be responsible for providing all services, equipment, facilities, and functions which are necessary for the safe, reliable, efficient, and well-managed operation of the program, within the general parameters described in this IFB, and consistent with established industry practices, regardless of whether those services, equipment, facilities, and functions are specifically mentioned in this IFB or not. The bidder should clearly identify any omissions to the requirements set forth in the IFB.
- b. Form of Contract. A **sample** copy of the standard KCATA contract is attached to this IFB as Section 5. The standard contract terms and conditions outline various legal and administrative duties and responsibilities assumed by persons or organizations contracting with KCATA. It contains terms and conditions affecting the successful performance of the procurement. **Bids shall not stipulate any conditions or exceptions to the bid package or addenda.** The successful bidder will be expected to execute this contract. Contractors who take exception to the contract terms and conditions may contact the Buyer of Record prior to the due date to address concerns. However, consideration will only be given to negotiating terms and conditions not required by the Federal Transit Administration (FTA) which will be included in the final contract.

#### 8. Authorization to Bid.

- a. Sealed bids, one original hard copy and two copies shall be signed by an authorized official and submitted to the Procurement Department, Attn: Name, Title, KCATA, 1350 E. 17th Street, Kansas City, Missouri, 64108. *It is highly desirable that the bidder includes one (1) electronic copy of their bid response on flash drive.* The bid number "17-6006-23" should be clearly marked on the front of the return envelope.
- b. If an individual doing business under a fictitious name makes the bid, the bid shall so state. If the bid is made by a partnership, the full names and addresses of all members of the partnership shall be given and one principal member shall sign the bid. If a corporation, Limited Liability Company or other legal entity makes the bid, an authorized officer shall sign it in the corporate name. If the bid is made by a joint venture, the full names and addresses of all members of the joint venture shall be given and one member shall sign the bid authorized thereof.

## **9. Submittal Deadline.**

- a. Sealed bids will be received until the date and time specified for bid closing in Section I, "Bid Schedule". Bids received before the bid closing time will be kept securely sealed. Bids submitted by facsimile (fax) machine or electronic mail (e-mail) will not be accepted.
- b. At a time specified for bid opening, all bids properly received will be publicly opened and read aloud. Any bid received after this time will not be considered.

## **10. Incomplete Bid.**

All documents that are required to be submitted with this Bid are listed in Section 6. The bidder shall read all forms carefully before signing. Incomplete bid documents may render the bid non-responsive.

## **11. Withdrawal of Bids.**

- a. Bids may be withdrawn upon written request received by the KCATA before the time fixed for closing. Withdrawal of a bid shall not prejudice the right of the bidder to submit a new bid, provided it is received in a timely manner as provided above. The bond or certified check of any bidder withdrawing its bid, in accordance with the foregoing condition, will be returned promptly.
- b. No bids may be withdrawn for a period of ninety (90) days after the time set herein for the opening of bids.

## **12. Disclosure of Proprietary Information.**

- a. A bidder may restrict the disclosure of scientific and technological innovations in which it has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in the bids:
  - (1) Marking each page of each such document prominently in 16 point font with the words "Proprietary Information;"
  - (2) printing each page of each such document in a different color paper other than the paper which the remainder of the bid is printed; and
  - (3) segregating each page of each such document in a sealed envelope, which shall prominently display, on the outside, the words "Proprietary Information" in at least 16 point font, along with the name and address of the Bidder.
- b. After either a contract is executed pursuant to the IFB, or all bids are rejected, the bids will be considered public records open for inspection. If access to documents marked "Proprietary Information," as provided above, is requested under the Missouri Open Records Law, the KCATA will notify the Bidder of the request and the Bidder shall have the burden to establish that such documents are exempt from disclosure under the Law. Notwithstanding the foregoing, in response to a formal request for information, the KCATA reserves the right to release any documents if the KCATA determines that such information is a public record pursuant to the Missouri Sunshine Law.

## **13. Disadvantaged Business Enterprise (DBE) Requirements**

- a. It is the policy of the KCATA and the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBE's), as defined herein and in the Federal regulations published in 49 CFR Part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the KCATA to:
  1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;

2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
  3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
  4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE's;
  5. Help remove barriers to the participation of DBE's in DOT-assisted contracts;
  6. To promote the use of DBE's in all types of federally assisted contracts and procurement activities; and
  7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.
- b. **For this project there has been no goal established for DBE participation.** Because this contract is not funded with DOT grant funds, a contract goal has not been established for this procurement. However, it is the policy of KCATA to ensure that Minority-Owned Businesses (MBEs), Women-Owned Businesses (WBEs), Small Businesses (SBEs) and Disadvantaged Businesses (DBEs) have an equal opportunity to participate on KCATA's contracts. MBEs/WBEs/SBEs and DBEs are encouraged to submit bids as prime contractors, subcontractors, or through a joint venture/partnership.
- c. **Documents Due After Award.**
1. KCATA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included. KCATA may perform random audits and contact minority subcontractors to confirm the reported participation.
  2. Subcontractor Monthly Utilization Report. Contractors will be required to submit this report with each request for payment to KCATA. This report will include payments to ALL subcontractors – DBE and non-DBE. KCATA may require lien waivers from all subcontractors before reimbursement is made to the Contractor. KCATA may perform random audits and contact minority subcontractors to confirm the reported participation. Failure to meet the contracted goal without documented evidence of good faith effort may result in the termination of the contract.
  3. Request for Modification, Replacement or Termination of Disadvantaged Business Enterprise (DBE) Project Participation. Contractor is responsible for meeting or exceeding the DBE commitment amounts listed on the *Schedule of Participation by Contractor and Subcontractors form* submitted as part of Contractor's Bid Documents and as amended by any previously approved Request for Modification/Substitution. Any Change Orders or amendment modifying the amount Contractor is to be compensated will impact the amount of compensation due to DBEs for purposes of meeting or exceeding the Bidder/Proposer commitment. Contractor shall consider the effect of a Change Order or amendment and submit a Request for Modification/Substitution if the DBE commitment changes.
    - a) **Termination Only for Cause** - Prior to an award of a negotiated procurement and once a contract has been awarded; Contractor may not substitute or terminate a DBE subcontractor without KCATA's prior written consent. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
    - b) Written consent of termination may be given if the Contractor has demonstrated good cause. Good cause includes the following circumstances.

- 1) The listed DBE subcontractor fails or refuses to execute a written contract; or
  - 2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that the good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor; or
  - 3) The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
  - 4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
  - 5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law; or
  - 6) The DBE subcontractor is not a responsible contractor; or
  - 7) The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
  - 8) The listed DBE is ineligible to receive DBE credit for the type of work required;
  - 9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
  - 10) Other documented good cause that compels KCATA to terminate the DBE subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the Prime Contractor can substitute another DBE or non-DBE contractor.
- c) Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor 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.
- d) The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise KCATA and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCATA should not approve the Prime Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.
- e) For questions concerning KCATA's DBE Program requirements, please contact Ms. Canesha Moore, KCATA's DBE Liaison Officer, at (816) 346-0272 or via email at [cmoore@kcata.org](mailto:cmoore@kcata.org).

**SECTION 4**  
**BID EVALUATION, ACCEPTANCE AND AWARD**

**1. Bid Evaluation.**

- a. It is the intent of the KCATA to award a contract to the responsive and responsible bidder whose bid conforming to this IFB, is the lowest in price and, in KCATA's sole discretion, the most advantageous to the KCATA. Factors such as discounts, transportation costs and life cycle costs will be considered in determining which bid is lowest in price.
- b. A responsible bidder possesses the ability to perform successfully under the terms and conditions of the proposed contract considering matters including Contractor integrity, record of past performance, and financial and technical resources.
- c. The low bidder will be required to demonstrate its ability to provide the times and/or perform services contained in the solicitation, in a timely manner, to the complete satisfaction of the Authority. Doubt as to technical ability, productive capability, and financial strength which cannot be resolved affirmatively may result in a determination of non-responsibility by KCATA.
- d. If the low bidder is eliminated, then the second lowest bidder will be required to demonstrate its ability to perform services as described herein. This process will continue to the next lowest bidder until a bidder successfully meets the specification requirements.
- e. KCATA reserves the right to investigate the qualifications of all bidders under consideration to confirm any part of the information furnished by a bidder, or to require other evidence of managerial, financial or other capabilities which are considered necessary for the successful performance of the contract.

**2. Bid Acceptance.** Refer to Sample Contract (Section 5)

Each bid is to be submitted with the understanding that the acceptance in writing by the KCATA of the bid to furnish the materials and services, or any part thereof, described therein shall constitute a contract between the bidder and the KCATA which shall bind the bidder on its part to furnish and deliver at the price given and in accordance with the terms and conditions of said accepted bid and these conditions.

**3. Unbalanced Bid.** The Authority may determine that a bid is non-responsive if the prices proposed are materially unbalanced. A bid is materially unbalanced when it is based on prices significantly less than cost or prices significantly overstated relative to cost.

**4. Bid Award.**

- a. The procurement shall be awarded on the basis of the lowest responsive bidder complying with all the conditions of the bids, specifications, and instruction. The KCATA reserves the right to award any or all items of the bid or not to award at all.
- b. In the case of multiple line items, the KCATA reserves the right to award the entire bid to one bidder, or to split the award of the items to multiple bidders.
- c. If awarded at all, the bid may be awarded to the bidder whose total price is lowest, whose bid is responsive to the invitation thereof, and who is determined to be technically and financially responsible to perform as required. The KCATA reserves the right to accept another bid, if it is in the best interest of the Authority. **Conditional bids and any bid taking exception to these instructions or conditions, to the contract conditions or specifications, or to other contract requirements shall be considered non-responsive and shall be rejected.**

**5. Purchase Order or Contract.**

- a. Upon acceptance and award of a bid by KCATA, a purchase order or contract shall be issued thereon and shall constitute a contract for furnishing the items described in the bid in strict conformity with the specifications and bid conditions.
- b. The purchase order or contract shall be considered as made in Kansas City, Missouri, and the construction and enforcement of it shall be in accordance with the laws of the State of Missouri except those pertaining to conflicts of law.

**6. Bidder's Responsibilities.**

- a. By submitting a bid, the bidder represents that bidder has read and understands the IFB and the bid is made in accordance with the IFB; and
- b. By submitting a bid, the bidder represents that bidder possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to KCATA.

**7. Reservations.** This IFB does not commit KCATA to award a contract, to pay any cost incurred in preparation of a bid, or to procure a contract for services. The KCATA reserves the right to waive informalities or irregularities in bids, and to reject any or all bids; to cancel this IFB in part or in its entirety, and to re-advertise for bid if it is in the best interest of the Authority. KCATA shall be the sole judge of what is in its best interest with respect to this IFB.

**8. Debarment.**

- a. The bidder 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".
- b. The bidder 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.
- c. The bidder agrees to provide the 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.

**9. Employee Eligibility Verification.**

- a. The bidder is required by sworn affidavit and provision of documentation, to affirm its enrollment and participation in a federal work authorization program with respect to employees working in connection with the contracted services.
- b. The bidder shall also affirm that it does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3).
- c. The bidder is required to obtain the same affirmation from all subcontractors at all tiers.



## 10. Licenses and Permits.

- a. The bidder shall, without additional expense to KCATA, be responsible for obtaining any necessary licenses and permits, and for complying with all federal, state, and municipal laws, codes, and regulations applicable to the providing of products, equipment or materials, or the performance of the work in this procurement.
- b. The Contractor shall comply with all applicable and current rules, regulations and ordinances of any applicable federal, state, county or municipal governmental body or authority, including those as set forth by the Environmental Protection Agency (EPA), the Missouri Department of Natural Resources (MDNR), the Kansas Department of Health and Environment (KDHE), the FTA, the Department of Transportation (DOT), and the City of Kansas City, Missouri.

## 11. Required Documentation.

- a.. **References.** Bidders shall complete the References Form (Attachment J) indicating up to four (4) firms that represent work that is similar to this procurement. Include the company name, address, contact person, telephone number, contract amount, and length of contract.
- b. **Pricing Pages.**
  1. Bidders shall complete the Bid Response Form (Attachment K) including the “Schedule of Participation by Contractor and Subcontractors” (Attachment C) listing all subcontractors (including DBEs) and the value of work committed to them.
  2. Bidders utilizing DBEs in their bid must include Attachment E.2 and E.3, “Prime Contractor Affidavit Regarding DBE Participation.”
- c. **Vendor Registration Form.** All bidders doing business with the KCATA shall complete a Vendor Registration Form (Attachment A). To verify your firm’s registration status, contact the KCATA’s DBE/Grant Specialist at (816) 346-0272. Once registered, firms are responsible for submitting any changes to this document to KCATA.
- d. **Affirmative Action Compliance.**
  1. Contractors and subcontractors agree to comply with Federal Transit Law, specifically 49 U.S.C. 5332 which prohibits discrimination, including discrimination in employment and discrimination in business opportunity.
  2. Firms are required to complete the “Affidavit of Civil Rights Compliance” (Attachment B). This applies to both the Prime Contractor and Subcontractors.
  3. Firms are required to complete Attachment E.1, “KCATA EEO-1/Workforce Analysis Report.” A current EEO-1 form filed with a governmental agency may be substituted.
  4. For questions on these requirements, or for assistance in completing the forms, please contact KCATA’s Sr. Manager of Procurement at (816) 346-0224 or via email at [dadams@kcata.org](mailto:dadams@kcata.org).
- e. **Employee Eligibility Verification.**
  1. The bidder is required by sworn affidavit and provision of documentation, to affirm its enrollment and participation in a federal work authorization program with respect to employees working in connection with the contracted services. (Refer to Attachment F.1 and F.2).

2. The bidder shall also affirm that it does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3).
  3. The bidder is required to obtain the same affirmation from all subcontractors at all tiers.
- f. Certification of Debarment.** All bidders, and their subcontractors if applicable, shall complete the Certification of Primary Participant Regarding Debarment Suspension and Other Responsibility Matters Form (Attachment G.1 and G.2) certifying that they are not debarred, etc. from bidding on federal procurements.
- g. DBE Certification.**
1. The KCATA recognizes firms that have been certified as Disadvantaged Business Enterprises (DBEs) under the criteria established by the U. S. Department of Transportation's Regulations 49 C.F.R. Part 26. Contractors using DBE firms as subcontractors must submit a current certificate or letter of DBE certification from a member of the Missouri Regional Certification Committee (MRCC).
  2. All bidders requesting to become certified Disadvantaged Business Enterprises with the KCATA must complete the proper paperwork and certifications.
  3. Letter of Intent to Subcontract for each DBE subcontractor on the project must be signed by both the Prime and the DBE (Attachment E.2).
  4. Contractor Utilization Plan/Request for Waiver. This is a commitment that the Prime understands the DBE participation required on the project (Attachment E.3)
  5. For information and the necessary forms for the certification process, please contact KCATA's Grants/DBE Specialist at (816) 346-0272.
- h. Warranty; Warranty of Title.**
1. The Contractor agrees that products, equipment, materials or services furnished under this Contract, shall be covered by the most favorable warranties the Contractor gives to any customer of such products, equipment, materials or services, and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to KCATA by any other clause in this Contract.
  2. Upon final acceptance by KCATA of all work to be performed by the Contractor, KCATA shall so notify the Contractor in writing. The date of final acceptance shall commence the warranty period.
  3. Contractor shall provide KCATA with good and marketable title to all products, equipment or materials delivered under this Contract, free and clear of all liens and encumbrances.
- i. Receipt of Addenda.** In the event that Addenda are issued against this Invitation to Bid, bidders will be issued a Receipt of Addenda Form to complete and return with the Invitation to Bid, acknowledging receipt of all addenda issued. This is to safeguard KCATA and the bidder against failure to communicate any important information and changes to the scope of the procurement.
- j. Other Documents.** Bidders shall submit any other documents necessary to complete this bid. This may include technical information or product brochures.

**SECTION 5**  
**SAMPLE CONTRACT AGREEMENT and**  
**CONTRACT TERMS & CONDITIONS**

**CONTRACT #17-6006-23**  
**PURCHASE of BULK ANTIFREEZE and DIESEL EXHUAST FLUID**

**THIS CONTRACT** (the “Contract”), made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **Kansas City Area Transportation Authority (“KCATA”)**, a body corporate and politic, and a political subdivision of the States of Missouri and Kansas, with offices at 1350 East 17th Street, Kansas City, Missouri, and \_\_\_\_\_ (“Contractor”), with offices at \_\_\_\_\_.

**NOW, THEREFORE**, in consideration of the covenants and conditions to be performed by the respective parties hereto and of the compensation to be paid as hereinafter specified, the KCATA and the Contractor agree as follows:

**1. EMPLOYMENT OF CONTRACTOR.**

This Contract is entered into for the purpose of engaging the Contractor as an independent contractor by KCATA in accordance with that certain bid submitted by the Contractor dated \_\_\_\_\_, a copy of which is attached hereto as Appendix D and incorporated herein by reference (“Bid”).

**2. SCOPE OF CONTRACT.**

The Contractor shall provide the products, equipment, materials and/or work services consistent with the Invitation for Bid (IFB) solicited by the KCATA, dated \_\_\_\_\_ entitled “**Purchase of Bulk Antifreeze and Diesel Exhaust Fluid**” (sometimes referred to as the “Project” or the “Work”), which is attached hereto as Appendix E and incorporated herein by reference. The Contractor hereby agrees to provide the bulk deliveries of antifreeze and diesel exhaust fluid as needed at the firm, fixed prices stated in the Appendix C attached hereto for the KCATA in accordance with the specifications of the scope of contract provided in the Contract Documents herein.

**3. TERM.**

The term of this contract agreement shall be for a period of one (1) year(s) beginning \_\_\_\_\_, **2017 and expiring on** \_\_\_\_\_. The services to be provided and performed shall commence upon receipt of a notice to proceed from the KCATA. Work in process prior to expiration of the contact agreement shall be completed and as construed by KCATA to be within the “contract term”.

**4. CONTRACT SUM.**

The KCATA shall pay the Contractor in current funds for the provision of products and the performance of the services (Appendix B to this Contract), subject to (a) the terms and conditions of the Contract and (b) any KCATA authorized additions or deductions by “Change Order”, if applicable, as provided in this Contract. The contractor shall be paid for the work performed at the rates set out in the Contractor’s pricing bid response (Appendix C). It is anticipated that the funds to be paid the Contractor under this contract shall not exceed the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). A breakdown of the Contract Sum is provided in the Bid Response Form cost page of the Contractor, a copy of which is attached hereto as Appendix C (“Cost Page”).

**5. MISCELLANEOUS PROVISIONS.**

The following Appendices are attached hereto by reference as part of this Contract. This Contract and any

amendments issued hereafter, constitute the entire Contract between the KCATA and the Contractor.

- Appendix A. Contract Terms and Conditions; and
- Appendix B. Scope of Work; and
- Appendix C. Cost Page Submitted by Contractor; and
- Appendix D. Contractor’s Original Bid Response; and
- Appendix E. Original IFB #17-6006-23 and any addendums thereto

**IN WITNESS WHEREOF**, the parties hereto for themselves, their successors and permitted assigns, executed this Contract Agreement as of the day and year first above written.

\_\_\_\_\_  
**(CONTRACTOR)**

**KANSAS CITY AREA TRANSPORTATION  
AUTHORITY**

By \_\_\_\_\_  
Name  
Title

By \_\_\_\_\_  
Steven C. Klika, Chairman of the Board

By \_\_\_\_\_  
Dennis Bixby, Secretary of the Board

## CONTRACT TERMS AND CONDITIONS

### ARTICLE 1: ACCEPTANCE OF MATERIALS – NO RELEASE

Acceptance of any portion of the products, equipment or materials prior to final acceptance shall not release the Contractor from liability for faulty workmanship or materials, or for failure to fully comply with all of the terms of this Contract. KCATA reserves the right and shall be at liberty to inspect all products, equipment or materials and workmanship at any time during the Contract term, and shall have the right to reject all materials and workmanship which do not conform with the conditions, Contract requirements or specifications; provided, however, that KCATA is under no duty to make such inspection, and Contractor shall (notwithstanding any such inspection) have a continuing obligation to furnish all products, services, equipment or materials and workmanship in accordance with the instructions, Contract requirements and specifications. Until delivery and acceptance, and after any rejections, risk of loss will be on the Contractor, unless loss results from negligence of KCATA.

### ARTICLE 2: AGREEMENT IN ENTIRETY

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by all parties.

### ARTICLE 3: ASSIGNMENT

A. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of KCATA. In the event of KCATA's consent to assignment of this Contract, all of the terms, provisions and conditions of the Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representative.

### ARTICLE 4: BANKRUPTCY

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the KCATA official identified in the "Notification and Communication" section. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of KCATA Contract numbers against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

### ARTICLE 5: BREACH OF CONTRACT; REMEDIES

- A. If the Contractor shall fail, refuse or neglect to comply with any terms of this Contract, such failure shall be deemed a total breach of contract and the Contractor 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 Contract 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 Contract, 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.

### ARTICLE 6: CHANGES

KCATA may at any time, by a written order, and without notice to the Contractor, make changes within the general scope of this Contract. No such changes shall be made by the Contractor without prior written approval by KCATA. If any such change causes an increase or decrease in the Contract sum, or the time required for performance of this Contract, whether changed or not changed by such order, an equitable adjustment shall be made by written modification. Any Contractor's claim for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change. Nothing in this clause shall excuse the Contractor from proceeding with this Contract as changed.

## ARTICLE 7: CHANGES TO FEDERAL REQUIREMENTS

Contractor 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 the Authority and FTA (Master Agreement 23 dated October 1, 2016), as they may be amended or promulgated from time to time during the term of this Contract. Contractors' failure to so comply shall constitute a material breach of this Contract. Contractor 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.

## ARTICLE 8: CIVIL RIGHTS

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, 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 Contractor 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 Contractor agrees to comply with 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 Contract:
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 Contractor 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 C.F.R. 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 Contract. The Contractor 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 Contractor agrees to comply with any implementing requirements FTA may issue.
  2. **Age.** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  3. **Disabilities.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor 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 Contractor 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 Contractor 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. Contractor also agrees to comply with any implementing requirements FTA may issue.
- D. Contractor understands that it is required to include this Article in all subcontracts. Failure by the Contractor to carry out these requirements or to include these requirements in any subcontract is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the KCATA deems appropriate,

including but not limited to withholding monthly progress payments and/or disqualifying the Contractor from future bidding as non-responsible.

#### **ARTICLE 9: CONFLICTS OF INTEREST (ORGANIZATIONAL)**

The Contractor certifies that it has no other activities or relationships that would make the Contractor unable, or potentially unable, to render impartial assistance or advice to KCATA, or that would impair the Contractor's objectivity in performing work under this Contract, or that would result in an unfair competitive advantage to Contractor or to another third party performing the Project work.

#### **ARTICLE 10: CONTRACTOR'S PERSONNEL**

All of the services required hereunder shall be performed by the Contractor or under its supervision and all personnel engaged in the services shall be fully qualified and authorized under state and local law to perform such services. Any change in the key personnel, as described in the contractor's proposal, shall be subject to the written approval of KCATA; such approval shall not be unreasonably withheld. The parties agree that at all times during the entire term of this Contract that the persons listed in Contractor's proposal shall serve as the primary staff person(s) of Contractor to undertake, render and oversee all of the services of this Contract subject to KCATA's right to remove personnel. KCATA reserves the right to require the Contractor to remove any personnel and or subcontractors for any cause provided such request for removal shall be documented in writing to Consultant.

#### **ARTICLE 11: CONTRACTOR'S RESPONSIBILITY**

No advantage shall be taken by the Contractor or its subcontractor of the omission of any part or detail which goes to make the equipment complete and operable for use by KCATA. In case of any variance, this specification shall take precedence over Contractor's or subcontractor's own specifications. The Contractor shall assume responsibility for all materials and services used whether the same is manufactured by the Contractor or purchased ready made from a source outside the Contractor's company.

#### **ARTICLE 12: DEBARMENT AND SUSPENSION CERTIFICATION**

- A. The Contractor, 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.
- B. The Contractor 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.
- C. The Contractor 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.

#### **ARTICLE 13: DELIVERY**

Materials and/or equipment shall be delivered to Kansas City Area Transportation Authority, Central Receiving Facility, Building #1, 1350 East 17<sup>th</sup> Street, Kansas City, Missouri, 64108. KCATA will assume custody of property at other locations, if so directed in writing by KCATA. Packing slips shall be furnished with the delivery of each shipment. KCATA reserves the right to inspect all deliveries or services before acceptance. All external components shall be wrapped for protection against damage during shipping and handling. Each specified unit shall be delivered to KCATA in first class condition and the Contractor shall assume all responsibility and liability for said delivery. KCATA reserves the right to extend delivery or installation, postpone delivery or installation, or reschedule delivery or installation in case the delivery or installation of service equipment under this Agreement shall be necessarily delayed because of strike, injunction, civil disturbance, government controls, or by reason of any cause of circumstance beyond the control of the Contractor, as detailed in writing by the Contractor. The time of completion of a delivery or installation shall be extended by a number of days to be determined in each instance by KCATA.

#### **ARTICLE 14: DISCLAIMER OF FEDERAL GOVERNMENT OBLIGATION OR LIABILITY**

The Contractor, and any subcontractors acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Contractor, or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract. 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.

#### **ARTICLE 15: DISPUTE RESOLUTION**

- A. Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by KCATA's Senior Manager of Procurement, who shall reduce the decision to writing and mail or otherwise furnish a copy to the Contractor. The decision of the Senior Manager of Procurement shall be final and conclusive unless within ten (10) days from the date of receipt of such copy the Contractor mails or otherwise furnishes a written appeal addressed to the Chief Executive Officer, with a copy to the Chief Operations Officer and the Senior Manager of Procurement. The determination of such appeal by the Chief Operations Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, arbitrary, or not supported by substantial evidence. In connection with any appeal proceeding under this clause the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, and unless otherwise directed in writing by KCATA, the Contractor shall proceed diligently with performance in accordance with the Senior Manager of Procurement's decision.
- B. The duties and obligations imposed by the Contract 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. No action or failure to act by the KCATA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### **ARTICLE 16: EMPLOYEE ELIGIBILITY VERIFICATION**

- A. To comply with Section 285.500 RSMo, *et seq.*, the Contractor is required by sworn affidavit and provision of documentation, to affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. The Contractor shall also affirm that it does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). The Contractor is required to obtain the same affirmation from all subcontractors at all tiers with contracts exceeding \$5,000.
- B. A federal work authorization program is any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and control Act of 1986 (IRCA), P.L.99-603.

#### **ARTICLE 17: ENVIRONMENTAL REGULATIONS**

- A. **Clean Air.** The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §7401 *et seq.* The Contractor agrees to report, and to require each subcontractor at every tier receiving more than \$100,000 from this Contract 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.
- B. **Clean Water.** The Contractor 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 *et seq.* The Contractor agrees to report, and require each subcontractor at every tier receiving more than \$100,000 from this Contract to report any violation of these requirements resulting from any project implementation activity to KCATA. The Contractor understands that KCATA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office.
- C. **Energy Conservation.** The Contractor 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 Contractor agrees to include the requirements of this clause in all subcontracts under this Contract.
- D. **Recovered Materials/Recycled Products.** To the extent practicable and economically feasible, the Contractor 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.

#### **ARTICLE 18: FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

- A. The Contractor acknowledges that the provisions of 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 Contract, the Contractor 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 Contract. In addition to other penalties that may be applicable, the Contractor 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 Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor 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 Contract, the Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include these clauses in each subcontract, and it is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **ARTICLE 19: GOVERNING LAW; CHOICE OF JUDICIAL FORUM**

This Contract 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 Contract, respecting its alleged breach, shall be instituted only in the Circuit Court of Jackson County, Missouri.

#### **ARTICLE 20: HEADINGS**

The headings included in this Contract 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.

#### **ARTICLE 21: INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS**

The provisions in this Contract 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 Contract. Contractor 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 Contractor 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.

#### **ARTICLE 22: INDEPENDENT CONTRACTOR**

- A. The parties agree that the Contractor is an independent contractor under this Contract. Under no circumstance shall the Contractor be considered an agent, employee or representative of KCATA and KCATA shall not be liable for any claims, losses, damages, or liabilities of any kind resulting from any action taken or failed to be taken by the Contractor.
- B. The Contractor shall furnish adequate supervision, labor, materials, supplies, security, financial resources and equipment necessary to perform all the services contemplated under this Contract in an orderly, timely, and efficient manner.

#### **ARTICLE 23: INSPECTION OF SERVICES**

- A. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the services provided in the performance of the Contract. "Services" as used in this clause, includes services performed, quality of the work, and materials furnished or used in the performance of services.

- B. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the project. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Authority during contract performance and for as long afterwards and the Contract requires.
- C. The Authority has the right to inspect and test all services called for by this Contract to the extent practicable at all times and places during the term of the Contract. The Authority shall perform inspection and tests in a manner that will not unduly delay the work.
- D. If any of the services performed do not conform to Contract requirements, the Authority may require the contractor to perform the services again in conformity with Contract requirements for no additional fee. When the defects in performance cannot be corrected by re-performance, the Authority may:
  - 1. Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; or
  - 2. Reduce the Contract Sum accordingly.
- E. If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Authority may:
  - 1. By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Authority that is directly related to the performance of the work; or
  - 2. Terminate the Contract for default.

#### **ARTICLE 24: INSURANCE**

- A. The insurance required in this Contract shall be written for not less than any limits of liability required by law or by those set forth below, whichever is greater, and shall include blanket contractual liability insurance as applicable to the Contractor's obligations under the Liability and Indemnification section below. All policies, except Professional Liability policies, shall name KCATA, its commissioners, officers, and employees as additional insureds. Explosion, collapse and underground coverage shall not be excluded. The insurance should be written with companies acceptable to KCATA and the companies should have a minimum A.M. Best's insurance rating of A-(VIII). An exception to the minimum A.M. Best rating is granted for Workers Compensation exposures insured through the Builders' Association of Self Insurance Fund (BASIF) or Missouri Employers' Mutual Insurance Company.
- B. The Contractor shall be required to furnish to KCATA copies of required insurance policies and relevant additional insured endorsements of insurance. If copies of the required insurance policies or endorsements are not available, the Contractor shall be required to furnish certificates of insurance prior to execution of the Contract, and thereafter furnish copies of the policies and additional insured endorsements, from time to time, whenever reasonably requested by KCATA. The certificates (with the exception of Professional Liability and Workers Compensation coverage) shall specifically state that:
  - 1. Contractual liability coverage is applicable; and
  - 2. The Kansas City Area Transportation Authority, its commissioners, officers and employees are named as additional insureds (Named Insureds) on the policies covered by the certificate; using this specific wording: **Kansas City Area Transportation Authority, its commissioners, officers, and employees are named as additional insureds as respects general liability and where required by written contract. Any coverage afforded the certificate holder as an additional insured shall apply as primary and not excess or contributing to any insurance or self-insurance in the name of the certificate holder, and shall include a waiver of subrogation.**
- C. Further, from time to time and whenever reasonably requested by KCATA, the Contractor shall represent and warrant to KCATA (1) the extent to which the insurance limits identified below have been, or may be, eroded due to paid or pending claims under the policies; and (2) the identity of other entities or individuals covered as an additional insured on the policies. Further, the Contractor shall confirm that the insurers' obligation to pay defense costs under the policies is in addition to, and not part of the liability limits stated in the policies.

D. All such insurance, with the exception of Professional Liability coverage, shall contain endorsements that the policies may not be canceled or amended or allowed to lapse by the insurers with respect to KCATA its commissioners, officers and employers by the insurance company without thirty (30) days prior notice by certified mail to KCATA in addition to the Named Insured (s) and that denial of coverage or voiding of the policy for failure of Contractor to comply with its terms shall not affect the interest of KCATA, its commissioners, officers and employees thereunder.

E. The requirements for insurance coverage are separate and independent of any other provision hereunder.

**1. Worker's Compensation:**

- a. State: Missouri and/or Kansas – Statutory
- b. Employer's Liability:           Bodily Injury by Accident -- \$500,000 Each Accident  
                                          Bodily Injury by Disease -- \$500,000 Each Employee  
                                          Bodily Injury by Disease -- \$500,000 Policy Limit

The Contractor and any subcontractor shall maintain adequate workers' compensation insurance as required by law to cover all employees during performance of services, or during delivery, installation, assembly or related services in conjunction with this Agreement.

**2. Commercial General Liability:**

- Bodily Injury and Property Damage to include Products and Completed Operations:
- \$1,000,000 Each Occurrence
  - \$2,000,000 General Aggregate (per project)
  - \$1,000,000 Personal and Advertising Injury
  - \$50,000 Fire Damage
  - \$5,000 Medical Expenses
  - 2 Years (Completed Operations)

Contractor shall procure and maintain at all times during the term of the KCATA purchase order or the Contract commercial general liability insurance for liability arising out of the operations of the Contractor and any subcontractors. The policy(ies) shall include coverage for the Contractor's and subcontractors' products and completed operations for at least two (2) years following project completion, or as otherwise noted. The policy(ies) shall name as an additional insured, in connection with Contractor's activities, the KCATA, its commissioners, officers, and employees. Using ISO Form CG 20 10 11 85 (or OCG20 26 0704 in the case of a Blanket Endorsement), or such other additional insured forms acceptable to KCATA. The Insurer(s) shall agree that its policy(ies) is primary insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance or self-insurance KCATA may have.

**3. Auto Liability:**

Bodily Injury and Property Damage: \$1,000,000 Combined Single Limit

The policy(ies) shall include automobile liability coverage for all vehicles, licensed or unlicensed, on or off the KCATA premises, whether the vehicles are owned, hired or non-owned, covering use by or on behalf of the Contractor and any subcontractors during the performance of work under this Contract.

**4. Pollution**

Pollution Liability Limit:   \$1,000,000 Each Occurrence  
                                          \$1,000,000 Annual Aggregate

Where applicable, the Contractor shall obtain and keep in effect during the term of the Contract, Pollution Liability Insurance covering their liability for bodily injury, property damage and environment damage, including clean up and remediation costs arising out of the work or services to be performed under this contract. Coverage shall apply to the above for premises and operations, products and completed operations and automobile liability. Automobile liability coverage may be satisfied by utilizing ISO Endorsement CA 9948 or equivalent.

## 5. Umbrella or Excess Liability

Umbrella or Excess Liability Limit:                    \$1,000,000 Each Occurrence  
                                                                                 \$1,000,000 Aggregate (per project)

Where applicable, the Contractor shall obtain and keep in effect during the term of the contract, Umbrella or Excess Liability Insurance covering their liability over the limit for primary general liability, automobile liability, and employer's liability.

### ARTICLE 25: LIABILITY AND INDEMNIFICATION

- A. **Contractor's Liability.** Contractor shall be liable for all damages to persons (including employees of Contractor) or property of any type that may occur as a result of any act or omission by Contractor, any subcontractors, or sub-subcontractor, their respective agents or anyone directly employed by any of them or anyone for whose acts any of them may be liable or arising out of any product provided or services rendered under this Agreement.
- B. **Subrogation.** Contractor, its agents and any subcontractor hereby waive and relinquish any right of subrogation or claim against KCATA, its commissioners, senior leaders and employees arising out of the use of KCATA's premises (including any equipment) by any party in performance of this Agreement.
- C. **Indemnification.**
1. To the fullest extent permitted by law, Contractor 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 Contractor, subcontractors, or sub-subcontractors, their respective agents or anyone directly or indirectly employed by any of them in performing work under this Contract, 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.
  2. In claims against any person or entity indemnified under this section, by an employee or Contractor, 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 Contractor, 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 Contractor arising out of or resulting from the acts of Contractor in performing work under this Contract, Contractor shall promptly notify KCATA of such suit.
  3. 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 Contractor, a 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 Contract, and if Contractor 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 Contractor advance notice of any proposed compromise or settlement.
  4. KCATA shall permit Contractor to participate in the defense of any such action or suit through counsel chosen by the Contractor, provided that all fees and expenses of such counsel shall be borne by Contractor. If KCATA permits Contractor to undertake, conduct and control the conduct and settlement of such action or suit, Contractor 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. Contractor 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.

**ARTICLE 26: LICENSING, LAWS AND REGULATIONS**

- A. The Contractor shall, without additional expense to KCATA, be responsible for obtaining any necessary licenses and permits, and for complying with all federal, state, and municipal laws, codes, and regulations applicable to the providing of products, equipment or materials, or the performance of the Services, under this Contract.
- B. The Contractor shall comply with all applicable and current rules, regulations and ordinances of any applicable federal, state, county or municipal governmental body or authority, including but not limited to those as set forth by the Environmental Protection Agency, the Missouri Department of Natural Resources, the Kansas Department of Health and Environmental, the FTA, the Department of Transportation, and the City of Kansas City, Missouri.

**ARTICLE 27: LOBBYING RESTRICTIONS**

- A. The Contractor is bound by its certification contained in its offer 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, and 49 CFR Part 20. The Contractor agrees to comply with this requirement throughout the term of the Contract.
- B. The Contractor agrees to include these requirements in all subcontracts at all tiers exceeding \$100,000 and to obtain the same certification and disclosure from all subcontractors (at all tiers)

**ARTICLE 28: NATIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE AND STANDARDS**

The contractor agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307 ©, 23 U.S.C. § 512 note, and Contractor agrees to apply 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.

**ARTICLE 29: NOTIFICATION AND COMMUNICATION**

Communications regarding technical issues and activities of the project shall be exchanged with KCATA’s Senior Buyer, Jessica Johnson at (816) 346-0248 or via e-mail at [jjohnson@kcata.org](mailto:jjohnson@kcata.org).

Issues regarding the contract document, changes, amendments, etc. are the responsibility of KCATA’s Procurement Department. All notices and communications on all matters regarding this Contract may be given by delivery or mailing the same postage prepaid, addressed to the following:

If to KCATA:                     Jessica Johnson, Senior Buyer  
                                          Kansas City Area Transportation Authority  
                                          1350 East 17<sup>th</sup> Street  
                                          Kansas City, MO 64108

If to Contractor:             \_\_\_\_\_

                                          \_\_\_\_\_

The Contractor shall notify KCATA immediately when a change in ownership has occurred, or is certain to occur.

The addresses to which notices may be made may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

**ARTICLE 30: PROHIBITED INTERESTS**

- A. No board member, officer, employee or agent of KCATA or of a local public body who has participated or will participate in the selection, award, or administration of this Contract, 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 Contract or the proceeds thereof, to any share or part of this Contract, 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 Contract, 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.

### **ARTICLE 31: PROHIBITED WEAPONS AND MATERIALS**

- A. Missouri Revised Statutes, Section 571.107 (R.S.Mo. §571.107) allows government units and businesses to prohibit persons holding a concealed carry endorsement from carrying concealed firearms on its premises. Accordingly, KCATA has adopted the following rules prohibiting weapons, whether concealed or not, and whether or not the individual carrying the weapon has an endorsement or permit to carry.
- B. No weapon, including firearms concealed or not, or other instrument intended for use as a weapon, or any object capable of inflicting serious bodily injury upon another person or property may be carried in or on any facility or property of KCATA, including vehicles of contractors parked on KCATA property or leased facilities, or vehicles used in transporting KCATA customers, even if a person has a permit to carry a concealed weapon, unless authorized in writing to do so by KCATA. For the purposes hereof, a weapon shall include, but not be limited to, a firearm, knife, sword, mace, or any instrument of any kind known as blackjack, billy club, club, sandbag and metal knuckles.
- C. No explosives, flammable liquids, acids, fireworks, other highly combustible materials, radioactive materials or biochemical materials may be carried on or in any KCATA property, facility or vehicle, including vehicles of contractors parked on KCATA property or leased facilities, or vehicles used in transporting any KCATA customer, except as authorized in writing by KCATA.
- D. Any contractor, subcontractor, employee or agent thereof, who has a firearm or other weapon, including those used for recreational purposes, in his/her possession, including on his/her person, in a vehicle on an KCATA facility, in a vehicle carrying KCATA customers, or accessible such as in first aid kits, toolboxes, purses, lunch or carrying bags, etc., at any time while performing KCATA contracted services or on KCATA property, including parking lots, concealed or not, shall be immediately prohibited from performing any further KCATA work, even if the person has a permit to carry a concealed weapon.
- E. Any KCATA contractor, subcontractor, employee or agent thereof, while performing KCATA contracted services or on any KCATA property or facilities, who has in his/her possession, carries, transports, displays, uses, flourishes, or threatens another person with a weapon, radioactive material, biochemical material or other dangerous weapon, object or material, which has the capability of inflicting bodily injury, shall be immediately prohibited from performing any further KCATA work and reported to local law enforcement authorities.

### **ARTICLE 32: RECORD RETENTION AND ACCESS**

- A. The Contractor 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 Contract. In the event of litigation or settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain same until such litigation, appeals, claims or exceptions related thereto have been disposed of.
- B. The Contractor shall permit KCATA, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, as applicable, the City of Kansas City, Missouri, to inspect all work, materials, construction sites, payrolls, and other data and records, and to audit the books, records, and accounts of the Contractor relating to its performance under this Contract.
- C. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed, and to include this clause in all subcontracts.

### **ARTICLE 33: REQUESTS FOR PAYMENT**

- A. Invoices requesting payment shall be submitted directly to KCATA's Procurement Department. All invoices shall be numbered, dated and submitted in duplicate, and contain full descriptive information of materials or services furnished. All invoices and correspondence shall reference KCATA's Contract number. Separate invoices shall be submitted for each purchase order or work (task) order.
- B. Payment by KCATA will be made within the later of 1) 30 days after receipt of a proper invoice, or 2) 30 days after KCATA's acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.
- C. All final invoices shall be submitted to KCATA within 90 days of project completion or contract termination. Invoices submitted more than 90 days after project completion or contract termination will not be valid and will not be paid. Contractor indemnifies and holds KCATA harmless for any suit filed for payment of invoices submitted after 90 days of project completion or contract termination.
- D. **Subcontractor Payments**
  - 1. Prompt Payment. The Contractor shall establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor shall pay each DBE and non-DBE subcontractor for satisfactory performance of its contract, or any billable portion thereof, in accordance with the timing set forth in any applicable laws or no later than 30 days, whichever is less, from the date of the Contractor's receipt of payment from the Authority for work by that subcontractor.
  - 2. Prompt Return of Retainage. If retainage is withheld from subcontractors, the Contractor is required to return any retainage payment to its DBE and non-DBE subcontractors in accordance with the timing set forth in any applicable laws or no later than 30 days, whichever is less, from the date of receipt of the retainage payment from the Authority related to the subcontractors work. Any delay or postponement of payment from said time frame may occur only for good cause following written approval from KCATA.
  - 3. The Contractor shall certify on each payment request to the Authority that payment has been or will be made to all subcontractors. Lien waivers may be required for the Contractor and its subcontractors. The Contractor shall notify KCATA on or before each payment request, of any situation in which scheduled subcontractor payments have not been made.
  - 4. If a subcontractor alleges that the Contractor has failed to comply with this provision, the Contractor agrees to support any Authority investigation, and if deemed appropriate by the Authority, to consent to remedial measures to ensure that subcontractors are properly paid as set forth herein.
  - 5. The Contractor agrees that the Authority may provide appropriate information to interested subcontractors who inquire about the status of Authority payments to the Contractor.
  - 6. Nothing in this provision is intended to create a contractual obligation between the Authority and any subcontractor or to alter or affect traditional concepts of privity of contract between all parties.

### **ARTICLE 34: RIGHT TO OFFSET**

KCATA, without waiver or limitation of any rights, may deduct from any amounts due Contractor in connection with this Contract, or any other contract between Contractor and KCATA, any amounts owed by Contractor to KCATA, including amounts owed by Contractor pursuant to Contractor's obligation to indemnify KCATA against third party claims arising out of Contractor's performance of work under this Contract.

### **ARTICLE 35: SEAT BELT USE POLICY**

Contractor agrees 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 Agreement.

## ARTICLE 36: SEVERABILITY

If any clause or provision of this Contract is held to be invalid illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall continue in full force and effect.

## ARTICLE 37: SUBCONTRACTORS

- A. **Subcontractor Approval.** None of the work or services covered by this Contract shall be subcontracted without the prior written approval of KCATA. The only subcontractors approved for this Contract, if any, are listed in an appendix to this Contract. Any substitutions or additions of subcontractors must have the prior written approval of KCATA as set forth herein.
- B. **DBE Subcontractor Employment.** See Disadvantaged Business Enterprise Provisions.
- C. **Subcontractor Payments.** See Requests for Payment Provisions.
- D. **Adequate Provision(s) in Subcontract(s).** Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete agreement. In addition, all subcontracts shall contain contractual provisions or conditions that allow for:
1. Administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, including sanctions and penalties as may be appropriate.
  2. Termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
  3. The following provisions if included in this Contract:

- Acceptance of Material – No Release
- ADA Access Requirements
- Agreement in Entirety
- Assignment
- Bankruptcy
- Breach of Contract; Remedies
- Changes
- Civil Rights
- Conflicts of Interest
- Contractor's Personnel
- Contractor's Responsibility
- Debarment and Suspension
- Delivery
- Disclaimer of Federal Government Obligations or Liability
- Dispute Resolution
- Employee Eligibility Verification
- Environmental Regulations
- Federal Changes
- Fraud and False or Fraudulent Statements or Related Acts
- Governing Law: Choice of Judicial Forum
- Headings
- Incorporation of FTA Terms
- Independent Contractor
- Inspection of Services
- Insurance
- Liability and Indemnification
- Licensing, Laws and Regulations
- Notification and Communication
- Prohibited Interests
- Prohibited Weapons and Materials
- Record Retention and Access



Requests for Payment  
Right to Offset  
Seat Belt Use Policy  
Severability  
Subcontractors  
Suspension of Work  
Taxpayer Identification Number (TIN)  
Termination  
Texting While Driving and Distracted Driving  
Unavoidable Delays  
Warranty; Warranty of Title  
General Provisions

- E. The Contractor will take such action with respect to any subcontractor as KCATA or the U.S. Department of Transportation may direct as means of enforcing such provisions of this contract.
- F. KCATA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included.
- G. KCATA may perform random audits and contact minority subcontractors to confirm the reported DBE participation.

#### **ARTICLE 38: SUSPENSION OF WORK**

KCATA may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work under this agreement for the period of time that KCATA determines appropriate for the convenience of KCATA.

#### **ARTICLE 39: TAXPAYER IDENTIFICATION NUMBER (TIN)**

The Contractor is required to provide its TIN, which is the number required by the IRS to be used by KCATA in reporting income tax and other returns. The TIN provided by the Contractor is \_\_\_\_\_.

#### **ARTICLE 40: TERMINATION**

- A. **Termination for Convenience.** The KCATA may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in KCATA's best interest. The Contractor will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract.
- B. **Funding Contingency.** If this Contract is subject to financial assistance provided by the U.S. Department of Transportation, the Contractor agrees that withdrawal or termination of such financial assistance by the U.S. DOT may require KCATA to terminate the agreement.
- C. **Termination for Default.**
  - 1. If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the Contract is for services, and the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any other provisions of the Contract, KCATA may terminate this Contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract.
  - 2. If the termination is for failure of the Contractor to fulfill the contract obligations, KCATA may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by KCATA. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, KCATA, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- D. **Opportunity to Cure.** KCATA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 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 Contractor fails to remedy to

KCATA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time period permitted, KCATA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude KCATA from also pursuing all available remedies against Contractor 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 Contractor 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.
- F. **Property of KCATA.** Upon termination of the Contract for any reason, and if the Contractor has any property in its possession belonging to KCATA, the Contractor shall protect and preserve the property, account for the same, and dispose of it in the manner KCATA directs. Upon termination of the Contract for any reason, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to KCATA's Project Manager all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

**ARTICLE 41: 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, the Contractor agrees 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.

**ARTICLE 42: UNAVOIDABLE DELAYS**

A delay is unavoidable only if the delay was not reasonably expected to occur in connection with or during the Contractor's performance, and was not caused directly or substantially by acts, omissions, negligence, or mistakes of the Contractor, the Contractor's suppliers, or their agents, and was substantial and in fact caused the Contractor to miss delivery dates, and could not adequately have been guarded against by contractual or legal means.

**ARTICLE 43: WARRANTY; WARRANTY OF TITLE**

- A. The Contractor agrees that equipment, materials or services furnished under this Agreement, shall be covered by the most favorable warranties the Contractor gives to any customer of such equipment, materials or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to KCATA by any other clause in this Contract.
- B. The Contractor warrants to KCATA, that all products, equipment and materials furnished under this Contract will be of highest quality and new unless otherwise specified by KCATA, free from faults and defects and in conformance with the Contract. All work not so conforming to these standards shall be considered defective. If required by KCATA, the Contractor shall furnish satisfactory evidence as to the kind and quality of products, equipment and materials. Further, at a minimum, all such products, equipment or materials must be free of defects in workmanship or materials, merchantable, comply with all applicable specifications and laws and be suitable for its intended purposes. The workmanship must be the best obtainable in the various trades.
- C. Upon final acceptance by KCATA of all work to be performed by the Contractor, KCATA shall so notify the Contractor in writing. The date of final acceptance shall commence the warranty period.

**D. Warranty of Work and Maintenance**

- 1. The Contractor warrants to KCATA, that all products, equipment and materials furnished under this Contract will be of highest quality and new unless otherwise specified by KCATA, free from faults and defects in workmanship or materials, merchantable, suitable for its intended purpose and in conformance with the Contract. All work not so conforming to these standards shall be considered defective. If required by KCATA, the Contractor shall furnish satisfactory evidence as to the kind and quality of products, equipment and materials. The work or services furnished must be of first quality and the workmanship must be the best obtainable in the various trades.
- 2. The work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the work against defective materials or faulty workmanship for a minimum period of one (1) year after final payment by

KCATA and shall replace or repair any defective products, equipment or materials or faulty workmanship during the period of the guarantee at no cost to KCATA.

**ARTICLE 44: GENERAL PROVISIONS**

- A. **No Third Party Beneficiaries.** The parties do not intend to confer any benefit hereunder on any person, firm or entity other than the parties hereto.
- B. **Extensions of Time.** No extension of time for performance of any Contractor obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.
- C. **Binding Effect.** This Contract shall bind and inure to the benefit of the legal representatives, successors and permitted assigns of the parties.
- D. **Counterparts.** This Contract may be executed at different times and in two or more counterparts and all counterparts so executed shall for all purposes constitute one contract, binding on all the parties hereto, notwithstanding that all parties shall not have executed the same counterpart. And, in proving this Contract, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.
- E. **Interpretation; Update of Citations.** Unless otherwise specified herein, (a) the singular includes the plural and the plural the singular; (b) words importing any gender include the other genders; and (c) references to persons or parties include their permitted successors and assigns. The parties recognize and agree that many of the laws, regulations, policies, procedures and directives stated as governing the Contractor’s performance of its work or services, or the supplying of products, equipment, or materials, pursuant to this Contract are subject to updating, amendment or replacement. Therefore, all such references in this Contract are agreed by the parties to be deemed to refer to the then current updated, amended or replacement form of such laws, regulations, policies, procedures and directives in effect at the applicable time during the term of this Contract and the same are hereby incorporated into this Contract by this reference.
- F. **When Effective.** Notwithstanding any provision contained in this Contract to the contrary, this Contract shall become effective only after the execution and delivery of this Contract by each of the parties hereto and no course of conduct, oral contract or written memoranda shall bind the parties hereto with respect to the subject matter hereof except this Contract.
- G. **Further Actions; Reasonableness and Cooperation by Parties; Time for Certain Actions.** Each party agrees to take such further actions and to execute such additional documents or instruments as may be reasonably requested by the other party to carry out the purpose and intent of this Contract. Except where expressly stated to be in a party’s sole discretion, or where it is stated that a party has the ability to act in its sole judgment or for its own uses or purposes, wherever it is provided or contemplated in this Contract that a party must give its consent or approval to actions or inactions by the other party or a third party in connection with the transactions contemplated hereby, such consent or approval will not be unreasonably withheld or delayed. If no time period is set hereunder for a party to approve or consent to an action or inaction by the other party or a third party such approval shall be given or affirmatively withheld in writing within ten (10) business days after it is requested in writing or it shall be deemed given.
- H. **Time Periods.** A “business day” is a business working day of KCATA administrative personnel which are days other than a Saturday, Sunday or legal holidays observed by the KCATA for administrative personnel. If the time period by which any right or election provided under this Contract must be exercised, or by which any act required hereunder must be performed, expires on a day which is not a business day, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.
- I. **Survival.** In addition to any provisions expressly stated to survive termination of this Contract, all provisions which by their terms provide for or contemplate obligations or duties of a party which are to extend beyond such termination (and the corresponding rights of the other party to enforce or receive the benefit thereof) shall survive such termination.
- J. **Authority of Signatories.** Any person executing this Contract in a representative capacity represents and warrants that such person has the authority to do so and, upon request, will furnish proof of such authority in customary form.

Contractor’s Initials \_\_\_\_\_

KCATA’s Initials \_\_\_\_\_

KCATA’s Initials \_\_\_\_\_

## SECTION 6 – ATTACHMENTS

### DOCUMENT/FORM REQUIREMENTS (BID CHECK LIST)

The following form(s) marked with  is/are required to be submitted with your IFB to be considered responsive. As a responsible/responsive supplier you are required to submit the noted document(s) to the Buyer by the closing date and time of the IFB.

- Attachment A – Vendor Registration**
- Attachment B – Affirmative Action Certification Process**
- Attachment C - Schedule of Participation by Contractor & Subcontractors**
- Attachment D – KCATA’s Travel Policy for Contractors**
- Attachment E.1 – EEO-1 Workforce Analysis Report**
- Attachment E.2 – Letter of Intent to Subcontract**
- Attachment E.3 – Contractor Utilization – Request for Waiver**
- Attachment F.1 - Affidavit of Primary Participants Regarding Employee Eligibility Verification**
- Attachment F.2 - Affidavit of Lower-Tier Participants Regarding Employee Eligibility Verification**
- Attachment G.1 – Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters**
- Attachment G.2 – Certification of Lower-Tier Participants Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion**
- Attachment H.1 – Certification of Primary Participants Regarding Restrictions on Lobbying**
- Attachment H.2 – Certification of Lower-Tier Participants Regarding Restrictions on Lobbying**
- Attachment I.1 – Buy America Certification Form (For Buses, Rolling Stock and Associated Equipment)**
- Attachment I.1 – Buy America Certification Form (For Steel or Manufactured Products)**
- Attachment J – References**
- Attachment K – Bid Response Form (Pricing Pages)**
- Attachment L –Vendor List**

## ATTACHMENT A KCATA VENDOR REGISTRATION FORM

Thank you for your interest in doing business with the Kansas City Area Transportation Authority. To be placed on the KCATA Registered Vendors List for goods and services, please complete this form **in its entirety** and return it to the KCATA Procurement Department. Submittal of this registration form will place your company on the KCATA Registered Vendor List, but does not guarantee a solicitation. The list will be periodically purged. If you do not receive solicitations, inquire to confirm that your company remains on our list. Current business opportunities can be found in the "Doing Business with KCATA" section of our website, [www.kcata.org](http://www.kcata.org).

*Firms are required to submit this information to KCATA once. However, it is your responsibility to notify KCATA of any changes to your business that may affect your registration (i.e. address, contact information).*

<b>Legal Entity Name:</b>		<b>Phone:</b>	
<b>Doing Business As:</b>		<b>Toll-free Phone:</b>	
<b>Physical Address:</b>		<b>Fax:</b>	
<b>City:</b>		<b>Email:</b>	
<b>State:</b>	<b>Zip:</b>	<b>Website:</b>	
<b>Contact Person Name:</b>		<b>Title:</b>	
<b>Contact Phone:</b>		<b>Contact Email:</b>	
<b>Mailing Address:</b>		<b>Phone:</b>	
<b>City:</b>		<b>Fax:</b>	
<b>State:</b>	<b>Zip:</b>	<b>Comments:</b>	
<b>Business Type:</b>	<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation
	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Other (Explain) _____	
<b>If Incorporated, in Which State:</b>	<b>Federal Tax ID No:</b>		
<b>Years in Business:</b>	<b>Years in Business Under Current Name:</b>		
<b>Does your firm have a Data Universal Numbering System (DUNS) number as a Federal contractor?</b> If so, please provide. DUNS numbers may be obtained free of charge from Dun & Bradstreet at 1-866-705-5711 or at <a href="http://www.fedgov.dnb.com/webform">www.fedgov.dnb.com/webform</a> .			DUNS # _____
<b>Annual Gross Receipts.</b> This information is required by U. S. Department of Transportation and Vendors will be requested to update this information on a regular basis.	<input type="checkbox"/> Less than \$250,000	<input type="checkbox"/> \$250,000 to \$500,000	<input type="checkbox"/> \$500,000 to \$1 Million
	<input type="checkbox"/> \$1 Million to 5 Million	<input type="checkbox"/> \$5 Million to 10 Million	<input type="checkbox"/> More than \$10 Million
<b>Standard Invoice Terms:</b>	<b>Due Days</b>	<b>Discount Days</b>	<b>Percent</b>
<b>Please provide a description of the goods and services you are interested in providing to KCATA.</b> Include the corresponding North America Industry Classification System (NAICS) Codes for your business type. For a listing of the codes visit U.S. Small Business Administration's website at <a href="http://www.sba.gov/content/small-business-size-standards">http://www.sba.gov/content/small-business-size-standards</a> .			
<b>NAICS CODE(S) :</b>		<b>NAICS CODE(S):</b>	
<b>NAICS CODE(S):</b>		<b>NAICS CODE(S):</b>	

<b>1. Is your firm a Disadvantaged Business Enterprise (DBE) based on the definitions and U.S. Department of Transportation certification guidelines in 49 CFR Part 26?</b> If YES, submit a copy of a copy of your current certification from your state's UCP.	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> ENCLOSED
<b>2. Is your firm a Small Business Enterprise (SBE) as defined by the U.S. Small Business Administration's Small Business Size Guidelines and 13 CFR 121?</b> For further information on 13 CFR 121 and SBE designation refer to SBA's website at <a href="http://www.sba.gov/content/small-business-size-standards">http://www.sba.gov/content/small-business-size-standards</a>	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> ENCLOSED
<b>3. Is your firm a Woman-Owned Business Enterprise (WBE) or Minority Owned Business Enterprise (MBE) certified by a nationally recognized organization?</b> If YES, please provide a copy of your certification documentation.	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> ENCLOSED
<b>4. Does your firm meet any of these other federal business classifications?</b> If YES, please provide a copy of certification documents.			
<input type="checkbox"/> Service Disabled, Veteran Owned Business	<input type="checkbox"/> SBA 8(a) Certified Business		
<input type="checkbox"/> HubZone Program Certified	<input type="checkbox"/> Other _____		
<b>DBE/SBE CERTIFICATION:</b> The KCATA participates in the U. S. Department of Transportation's DBE and SBE programs. Certification in these programs is based on the regulations in 49 CFR Part 26. If your firm is interested in becoming a certified DBE or SBE, please contact KCATA's Contracting/Supplier Diversity Coordinator at (816) 346-0224 or via email at <a href="mailto:dadams@kcata.org">dadams@kcata.org</a>			
<b>WORKER ELIGIBILITY AFFIDAVIT:</b> As required by §285.500 RSMo, et seq., any business contracting to perform work in excess of \$5,000 for the KCATA shall provide a sworn affidavit affirming: (1) its enrollment and participation in a federal work authorization program such as U. S. Department of Homeland Security's E-Verify, accompanied by corresponding documentation to evidence its enrollment in that program; and (2) that it does not knowingly employ any person who does not have the legal right or authorization under federal law to work in the United States. Prior to being awarded any contract with KCATA, you will be required to furnish proof of your firm's participation in such program.			
<b>VENDOR CERTIFICATION:</b> <i>I certify that information supplied herein (including all pages attached) is correct and that neither the business entity nor any person in any connection with the business entity as a principal or officer, so far as known, is now debarred or otherwise declared ineligible from bidding for furnishing materials, supplies, or services to the Kansas City Area Transportation Authority or declared ineligible to participate in federally funded projects.</i>			
<b>Signature</b>			<b>Date</b>
<b>Printed Name</b>			<b>Title</b>
<b>The following documents must be returned:</b> <ul style="list-style-type: none"> <li>• Completed Vendor Registration Form</li> <li>• KCATA Workforce Analysis/EEO-1 Report</li> <li>• Affidavit of Civil Rights Compliance (<i>found on KCATA's website as Attachment B</i>)</li> </ul> <p style="text-align: center;"> <b>Return completed Vendor Registration Packet to Kansas City Area Transportation Authority,          Procurement Department, 1350 East 17th Street, Kansas City, MO 64108          Fax: (816) 346-0336 or email: <a href="mailto:dadams@kcata.org">dadams@kcata.org</a></b> </p> <p style="text-align: center; color: blue;"> <i><b>NOTE: Vendors will be required to submit a signed IRS W9 form prior to authorization of any purchase.</b></i> </p>			
<i>A foreign corporation may not transact business in Missouri until it obtains a Certificate of Authority. To apply, you must use the forms provided by the Missouri Secretary of State's office, as required by law.</i>			

**ATTACHMENT B**  
**AFFIDAVIT OF CIVIL RIGHTS COMPLIANCE**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows: I am the \_\_\_\_\_ (title) of \_\_\_\_\_ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

I hereby swear or affirm that the business entity complies with the following:

**A. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, 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 Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with 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 Contract:

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 Contractor 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 C.F.R. 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 activities undertaken in the course of the Contract. The Contractor 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, sex, sexual orientation, gender identity, national origin, disability or age. 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 Contractor agrees to comply with any implementing requirements FTA may issue.
2. Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

\_\_\_\_\_

Affiant’s Signature

\_\_\_\_\_

Date

Subscribed and sworn to me before this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public Signature

\_\_\_\_\_

Date

My Commission expires: \_\_\_\_\_



## **GUIDELINES FOR COMPLETING KCATA WORKFORCE ANALYSIS/EEO-1 REPORT**

Contractor shall apply the following definitions to the categories in the attached Workforce Analysis/EEO-1 Report form. Contractors must submit the Workforce/Analysis form to be considered for contract award. The form is also required for all subcontractors.

### **A. RACIAL/ETHNIC**

1. **WHITE** (not of Hispanic origin): All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
2. **BLACK** (not of Hispanic origin): All persons having origins in any of the Black racial groups of Africa.
3. **HISPANIC**: All persons of Mexican, Puerto Rican, Cuban, Central or South American origin, regardless of race.
4. **ASIAN or PACIFIC ISLANDER**: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
5. **AMERICAN INDIAN or ALASKAN NATIVE**: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

### **B. JOB CATEGORIES**

1. **OFFICIALS and MANAGERS**: Includes chief executive officers, presidents, vice-presidents, directors and kindred workers.
2. **PROFESSIONALS**: Includes attorneys, accountants and kindred workers.
3. **TECHNICIANS**: Includes computer programmers and operators, drafters, surveyors, highway technicians, inspectors and kindred workers.
4. **SALES WORKERS**: Includes contract sales representatives, purchasing agents, customer relations representatives and kindred workers.
5. **OFFICE and CLERICAL**: Includes secretaries, book-keepers, clerk typists, payroll clerks, accounts payable clerks, receptionists, switchboard operators and kindred workers.
6. **CRAFT WORKERS** (skilled): Includes mechanics and repairers, electricians, carpenters, plumbers and kindred workers.
7. **OPERATIVES** (semi-skilled): Includes bricklayers, plaster attendants, welders, truck drivers and kindred workers.
8. **LABORERS** (unskilled): Includes laborers performing lifting, digging, mixing, loading and pulling operations and kindred workers.
9. **SERVICE WORKERS**: Includes janitors, elevator operators, watchmen, chauffeurs, attendants and kindred workers.

## ATTACHMENT E.1 – EEO-1 / WORK FORCE ANALYSIS REPORT

Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees.  
Enter the appropriate figures on all lines and in all columns. All blank spaces will be considered zero.

Job Categories	Number of Employees (Report employees in only one category)														
	Race/Ethnicity														
	Hispanic or Latino		Not Hispanic or Latino												Total Col A-N
	Male	Female	Male						Female						
			White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	America n Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	America n Indian or Alaska Native	Two or more races	
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
Executive/Senior-Level Officials and Managers															
First/Mid-Level Officials and Managers															
Professionals															
Technicians															
Sales Workers															
Administrative Support Workers															
Craft Workers															
Operatives															
Laborers and Helpers															
Service Workers															
TOTAL															
PREVIOUS YEAR TOTAL															
<b>TYPE OF BUSINESS</b>	<input type="checkbox"/> Manufacturing		<input type="checkbox"/> Wholesale		<input type="checkbox"/> Construction		<input type="checkbox"/> Regular Dealer		<input type="checkbox"/> Selling Agent		<input type="checkbox"/> Service Establishment			<input type="checkbox"/> Other	

\_\_\_\_\_  
Signature of Certifying Official

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Address/City/State/Zip Code

\_\_\_\_\_  
Date Submitted

\_\_\_\_\_  
Telephone Number/Fax Number

**ATTACHMENT F.1  
AFFIDAVIT OF PRIMARY PARTICIPANTS  
COMPLIANCE WITH SECTION 285.500 RSMO, ET SEQ.  
REGARDING EMPLOYEE ELIGIBILITY VERIFICATION**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows: I am the \_\_\_\_\_ (title) of \_\_\_\_\_ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

I hereby swear or affirm that the business entity does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3).

I hereby additionally swear or affirm that the business entity is enrolled in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986, and that the business entity will participate in said program with respect to any person hired to perform any work in connection with the contracted services.

I have attached hereto documentation sufficient to establish the business entity's enrollment and participation in the required electronic verification of work program. I shall require that the language of this affidavit be included in the award documents for all sub-contracts exceeding \$5,000.00 at all tiers and that all subcontractors at all tiers shall affirm and provide documentation accordingly.

\_\_\_\_\_  
Affiant's signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission expires:

**NOTE:** An example of acceptable documentation is the E-Verify Memorandum of Understanding (MOU) – a valid, completed copy of the first page identifying the business entity and a valid copy of the signature page completed and signed by the business entity, the Social Security Administration and the Department of Homeland Security.

**ATTACHMENT G.1  
CERTIFICATION OF PRIMARY PARTICIPANT  
REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential Contractor for a major third party contract), \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State or local) terminated for cause or default.

If the primary participant (applicant for FTA grant, or cooperative agreement, or potential third party Contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

**THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), \_\_\_\_\_  
\_\_\_\_\_ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF  
THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND  
UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C., SECTIONS 3801 *ET SEQ.* ARE APPLICABLE  
THERE TO.**

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

**ATTACHMENT H.1**  
**CERTIFICATION OF PRIMARY PARTICIPANTS**  
**REGARDING RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_ (Name and Title of Grantee Official or Potential Contractor for a Major Third Party Contract), hereby certify on behalf of \_\_\_\_\_  
\_\_\_\_\_ (Name of Grantee or Potential Contractor) that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_20\_\_\_\_\_

By \_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

**ATTACHMENT J  
REFERENCES**

**IFB # 17-6006-23  
Purchase of Bulk Antifreeze and Diesel Exhaust Fluid**

Work accomplished by Contractor which best illustrates current qualification relevant to this project:

**1.**

Job Description: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Time to Complete Job: \_\_\_\_\_  
Owner & Location: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ Contract Date: \_\_\_\_\_ to \_\_\_\_\_

**2.**

Job Description: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Time to Complete Job: \_\_\_\_\_  
Owner & Location: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ Contract Date: \_\_\_\_\_ to \_\_\_\_\_

**3.**

Job Description: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Time to Complete Job: \_\_\_\_\_  
Owner & Location: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ Contract Date: \_\_\_\_\_ to \_\_\_\_\_

**4.**

Job Description: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Time to Complete Job: \_\_\_\_\_  
Owner & Location: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ Contract Date: \_\_\_\_\_ to \_\_\_\_\_

**ATTACHMENT K  
BID RESPONSE FORM**

**PRICING TABLE 1: REQUIRED PRICING**

The bidder shall complete the following pricing table(s) and provide firm, fixed pricing necessary to meet the requirements of the IFB. The bid price shall include, as applicable, all items of labor, materials, tools, equipment, transportation, and other costs necessary to complete the manufacture, delivery, assembly, installation and drawings, if required, of the materials or services required in this procurement.

Bids shall be submitted on the Bid Response Form (Attachment K) provided. **Bids submitted on any other form may be considered non-responsive and therefore may be rejected.** The authorized person signing the bid shall initial any erasures, corrections or other changes appearing on the Bid Response Form. *No written comments, modifications or interlineations to the Bid Response Form will be accepted.*

Year 1 Pricing					
ITEM NO.	DESCRIPTION/COMMENTS	UNIT OF MEASURE	UNIT PRICE	ESTIMATED QUANTITIES	EXTENDED PRICE
1.	Bulk Antifreeze	Gal		5,000	
2.	Bulk Diesel Exhaust Fluid	Gal		10,500	
<b>GRAND TOTAL</b>					<b>\$</b>

Optional Year 1 Pricing					
ITEM NO.	DESCRIPTION/COMMENTS	UNIT OF MEASURE	UNIT PRICE	ESTIMATED QUANTITIES	EXTENDED PRICE
1.	Bulk Antifreeze	Gal		5,000	
2.	Bulk Diesel Exhaust Fluid	Gal		10,500	
<b>GRAND TOTAL</b>					<b>\$</b>

**PRICING TABLE 2: OTHER REQUIRED PRICING**

The bidder must state below all other applicable costs necessary to satisfy the *mandatory* requirements of the IFB. Unless stated in this Pricing Section, the KCATA shall assume that absolutely no other fees, expenses or charges, will be assessed to the KCATA whatsoever in connection with the products/services provided herein and to satisfy the IFB requirements.

DESCRIPTION/COMMENTS	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
<b>GRAND TOTAL</b>			<b>\$</b>

Company Name (Type / Print):	Date:
Authorized Signature: X	Title:

**ATTACHMENT K ~ continued**

**PRICING TABLE 3: OPTIONAL PRICING**

The bidder may provide firm, fixed pricing for optional features/products, expansion options and/or enhancements for the proposed solution. Please include other valued added options that are not included with the required bundled solution, but sold and maintained separately. Also list any pricing discounts.

DESCRIPTION/COMMENTS	UNIT OF MEASURE	UNIT PRICE

The undersigned, acting as an authorized agent or officer for the Bidder, does hereby agree to the following:

1. The offer submitted is complete and accurate, including all forms required for submission in accordance with the terms and conditions listed in this Invitation For Bids and any subsequent Addenda. The Bidder shall immediately notify the KCATA in the event of any change.
2. The quantities specified are based upon the best available estimates and do not determine the actual amount the Authority shall order during the contract period. The quantities are subject to change. Payments will be based on actual quantities order based on the unit rates quoted.
3. The undersigned agrees to furnish and deliver the items or perform services as described herein for the consideration stated in accordance with the terms and conditions listed in the KCATA IFB. The rights and obligations of the parties to any resultant purchase order/contract shall be subject to and governed by this document and any documents attached or incorporated herein by reference.

Company Name (Type / Print)

Date

Address / City / State / Zip

Authorized Signature

Title

Name (Type / Print)

Telephone #

Facsimile #

E-mail Address



**ATTACHMENT L  
VENDOR LIST**

Universal Lubricants  
Attn: Theresa Daniels  
2824 N Ohio  
Wichita, KS 67219  
P: 316-832-3616  
E: [tdaniels@petrochoice.com](mailto:tdaniels@petrochoice.com)

Heathwood Oil  
Attn: Steven Shondell  
2011 N. 10<sup>th</sup>  
Kansas City, KS 66117  
P: 913-321-1764  
E: [sas@heathwoodoil.com](mailto:sas@heathwoodoil.com)  
E: [office@heathwoodoil.com](mailto:office@heathwoodoil.com)

Ramsey Oil  
Attn: Trae Jones  
1127 W. 4<sup>th</sup>  
Hutchinson, KS 67501  
P: 620-662-8365  
E: [trae.jones@ramseyoil.com](mailto:trae.jones@ramseyoil.com)  
E: [jeff.bartlett@ramseyoil.com](mailto:jeff.bartlett@ramseyoil.com)