

**PROJECT BID DOCUMENTS****Book 1****Pkg 4 – 112 Tram Rail Expansion Joints****KCATA PROJECT NUMBER: #F23-5001-39A****ISSUE DATE: 12/8/2022****BID CLOSE DATE: 1/10/2023 2:00 PM Local****Time VIRTUAL BID OPENING: 1/11/2023 2 PM****OWNER:**

Kansas City Area Transportation Authority  
1200 E. 18<sup>th</sup> Street, Kansas City, Missouri 64108  
Telephone: 816-346-0200

**PROCUREMENT CONTACT:**

Denise Adams  
1350 E. 17<sup>th</sup> Street  
Kansas City, MO 64108  
Telephone: 816-346-0224  
Email: dadams@kcata.org

**PROJECT MANAGER**

Linda Clark, PE  
Kansas City Area Transportation Authority  
1200 E. 18<sup>th</sup> Street, Kansas City, Missouri 64108  
Email: lclark@kcata.org

**KC Streetcar Package 4**  
**Purchase and Delivery**  
**Project No. #F23-5001-39A**

Item No.	Unit Measure	Item Description	Quantity	Unit Price (\$)	Total Price (\$)
Package 4 - 112 Tram Rail Expansion Joints					
1	PR	Expansion Joints, 112 Tram, Track 1, Garage-Style Plug, Astralloy w/ Flashbutt Welding to 112, FEA Required, Flashbutt Welding Process Qualification Required, Plating System and Astralloy Maximum Thickness is 5.5", No curving of 112 Tram Rail, Guarding TBD, To Be Thermite Welded in the Field	7		\$ -
2	PR	Expansion Joints, 112 Tram, Track 2, Garage-Style Plug, Astralloy w/ Flashbutt Welding to 112, FEA Required, Flashbutt Welding Process Qualification Required, Plating System and Astralloy Maximum Thickness is 5.5", No curving of 112 Tram Rail, Guarding TBD, To Be Thermite Welded in the Field	7		\$ -

<b>TOTAL</b>	\$ -
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Itemized Bid Proposal Submitted By: \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized Signature

Company: \_\_\_\_\_

Date: \_\_\_\_\_

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**01 NOTICE OF INVITATION FOR BIDS**

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 that qualified contractors to provide bids for ***Pkg 4 – 112 Tram Rail Expansion Joints***. **The awarded contractor shall provide all equipment, tools, supplies, prevailing wage labor, supervision, insurance, warranties, and bonds to perform this work from inception to final acceptance by KCATA.**

**Description of Work:** Provide 112 Tram Rail Expansion joint suitable for crossing the Grand Avenue Viaduct in Kansas City, Missouri. The drawings on the plan sheets (BATES 302490 and 302491) are conceptual in nature. The bidders are encouraged to modify these drawing to meet the intent of this early procurement package.

This solicitation is funded by Federal Transit Administration (FTA) grants. **The Authority has set a goal of 0%** participation by certified Disadvantaged Business Enterprise (DBE) firm(s) for this project. Certified DBE firms are encouraged to submit bids as Primes or Subcontractors. Firms must be certified as a DBE by a member of the Missouri Regional Certification Committee, which includes KCMO, MoDOT, City of St. Louis, Metro or KCATA. A list of certified firms may be found at [www.modot.gov/mrcc-directory](http://www.modot.gov/mrcc-directory). MBE and WBE certifications from other agencies will not be counted toward DBE participation. For further information on this subject contact Mr. Whitney Morgan, KCATA's DBE/Grants Specialist, at (816) 346-0277 or [wmorgan@kcata.org](mailto:wmorgan@kcata.org).

Questions (technical, contractual, or administrative) must be directed in writing via email to Denise Adams at [dadams@kcata.org](mailto:dadams@kcata.org). Questions and requests for clarifications, including requests for approved equals, will be received until **12/22/2022 2:00 PM Local Time**. KCATA's response to these submissions will be in the form of an Addendum, as required.

Submission of a bid shall constitute a firm offer to the KCATA for 90 days from the date of closing. This IFB does not commit the KCATA to award a contract or to pay any cost incurred in preparation of a submittal. Bidders shall read and understand the requirements of this Invitation for Bids covered in the sections listed under the Table of Contents of this document.

The KCATA reserves the right to accept or reject any or all bids received, to modify this request, or cancel in part or in its entirety the IFB if it is the best interest of the KCATA.

All contractual agreements are subject to final approval by the Kansas City Area Transportation Authority's Board of Commissioners, if the total award value is or exceeds \$250,000. Board of Commissioners meet bi-monthly to approve and recommend award of contracts. This may affect schedule and NTP date.

This is a prevailing wage job under Federal Wage rates (Davis Bacon) and the Missouri State Annual Wage (MO AWO) rate. Awarded Contractor shall provide certified payrolls to KCATA with payment applications and/or invoices for review and approval prior to processing of payments.

The successful bidder shall furnish all necessary insurance, labor, materials, equipment, supplies, tools, applicable bonds, permits and supervision to accomplish the work called for in the contract in accordance with the plans and documents herein. The project shall be accomplished under a stipulated lump sum. Required work is not necessarily limited to the bid items listed in the bid form. It is the intent of the drawings and specifications that the resulting improvements be fully completed and functional ready for operation. The cost of work not specifically identified by a bid item in the bid form shall be included as subsidiary to other bid items.

KCATA anticipates award of lump sum contracts using AIA document A-101 Standard Form of Agreement between Owner and Contractor AIA Contract 2017 Edition and AIA Contract Document A201, 2017 General Conditions (modified to include Federal Transit Administration and KCATA contract conditions). If KCATA determines to award Packages 2A, 2B, and 2C to different Bidders, these same AIA forms will be used.

A 5% bid bond is required with the bid submission. For the awarded contract, retainage will be held at 5% per payment application submitted.

The work for this project shall conform to all applicable codes, standards, regulation, and requirements enforced by all authorities having jurisdiction, including but not limited to: International Building Code, International Mechanical Code, Uniform Fire Code, and National Electrical Code. The contractor is responsible for notifying the engineer, by way of KCATA, of all knowledge of possible conflicts or discrepancies between requirements of these construction documents and applicable codes, standards, regulations, etc.

**SEALED BIDS SHALL BE PROVIDED TO KCATA/RIDEKC NO LATER THAN 1/10/2023 2:00 PM Local Time with a virtual bid opening date tentatively scheduled for the day after at 2 PM.** Bids received after the date/time specified above shall be considered late and shall not be opened or considered for award. Bids received electronically or by facsimile (fax) will not be opened or considered.

Our partner and funding source, the Federal Transit Administration, (FTA) requires that an award be made only to responsible contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Responsibility criteria include administrative capacity, timeliness, and satisfactory current and past performance record. Contractors must not be suspended or disbarred by the federal government and be eligible for award of this contract.

It is the policy of KCATA to ensure that Disadvantage Business Enterprises (DBEs), as identified in 49 CFR Part 26, have an equal opportunity to receive and participate in Department of Transportation (DOT)-assisted contracts. For this project a goal of **0% participation** by Disadvantaged Business Enterprises (DBEs) has been established. DBE firms are encouraged to submit bids as Prime Contractors or Subcontractors. To be eligible, a firm must 1) be certified as a DBE under U.S. Department of Transportation's guidelines found in 49 CFR Part 26; and 2) hold a current, valid certification from a member of the Missouri Regional Certification Committee (MRCC) Unified Certification Program. MBE and WBE certifications from other organizations will not be accepted.

Bidders shall be aware that for the duration of the work and/or during the term of the contract on site interviews may be conducted by various agencies and/or firms to ensure full compliance with applicable wage rates, Buy America requirements, commercially useful functions as applicable to DBE work and all contractual requirements of the project. Subcontract documents shall be readily available to KCATA personnel upon request for verification of flow-down of FTA required terms and conditions during the duration of the contract.

The Kansas City Transportation Authority is exempt from federal excise, federal transportation and state sales tax and such taxes shall not be included in the bid price. The KCATA will provide the successful Bidder with a Sales Tax Exemption Certificate and a copy of KCATA's letter of Exemption from Missouri Sales and Use Tax.

Bids shall be submitted in a sealed envelope on the enclosed Bid Response Form along with all required submittal documents and must be clearly marked "BID SUBMITTAL: Pkg 4 – 112 Tram Rail Expansion Joints" and addressed to KCATA ATTN: Denise Adams 1350 East 17<sup>th</sup> Street, Kansas City, MO 64108.

Bids are subject to all terms, conditions and provisions as contained in the Project Manual.

Denise Adams  
Procurement Department  
Kansas City Area Transportation Authority

## 02 INVITATION FOR BID

### 02.01 BIDDING SCHEDULE

- |  |   |
|--|---|
|  | 12/8/2022   |
| (1) Bid Issue                          |   |
| (2) <a href="#">Pre-Bid Conference</a> | 12/21/2022 10:00 am Local Time; Link to TEAMS meeting – See |
| Section 02.01 for the hyperlink.       |   |
| (3) Deadline for Questions             | 12/22/2022 2:00 PM Local Time                               |
|  | 12/28/2022  |
| (4) KCATA responds to Questions        | 1/10/2023 2:00 PM Local Time                                |
| (5) Bid Closing                        | Location Shipping and Receiving at KCATA; 1350              |
|  | East 17th   |
| (a)                                    |   |
| Street, Kansas City, MO 64108          |   |
| (6) Bid Opening                        | 1/11/2023 at 2:00 PM local time January 2023                |
| (7) Notice of Award                    | February 2023   |
| (8) Issue Construction Contract        |   |

### 02.02 PROJECT REQUIREMENTS SUMMARY

It is anticipated that one contract will be awarded for this work. The bid response forms are provided for use. No changes or qualifications are to be made to the bid form.

Disadvantage Business Enterprise Goal Participation Goal: **0%**

Retainage Held	<b>5%</b>	of Contract Amount
Minimum Prime Contractor Participation	<b>20%</b>	of Contract Amount
Minimum DBE Prime Contractor Participation	<b>30%</b>	of Contract Amount
Bid Bond	<b>5%</b>	of Total Bid Amount
Payment Bond	<b>100%</b>	of Contract Amount
Performance Bond	<b>100%</b>	of Contract Amount
Maintenance Bond	<b>100%</b>	of Contract Amount (2 Year)

#### 02.02.01 Contract Completion

Notice to Proceed (NTP) will be issued by KCATA's Procurement Dept. and authorize the contractor to initiate the project, prepare shop drawings and order equipment and materials.

The total contract duration is estimated to be NTP + 730 calendar days.

## 02.02.02 Liquidated Damages

For the contract awarded, liquidated damages, not a penalty, shall be assessed at \$3,200 per calendar day for each day that the work is not substantially complete beyond the completion date listed above in Section 02.02.01.

## 02.02.03 Plans, Specifications and Project Manuals

Plans and specifications are available for download on KCATA's website.

## 02.03 BID INFORMATION

## 02.03.01 Project

Pkg 4 – 112 Tram Rail Expansion Joints

Project #F23-5001-39A

## 02.03.02 Owner(s)

Kansas City Area Transportation Authority/RIDE KC  
1200 East 18<sup>th</sup> Street  
Kansas City, Missouri 64108

KCATA Procurement  
1200 E. 18<sup>th</sup> Street  
Denise Adams  
Telephone 816-346-0224  
E-mail: dadams@kcata.org

KCATA Project Manager  
1200 E. 18<sup>th</sup> Street  
Linda Clark, PE  
E-mail: lclark@kcata.org

## 02.03.03 Place and Time

The Procurement Department for the Kansas City Area Transportation Authority (KCATA) will receive sealed bids until the date and time identified above at KCATA's Shipping and Receiving on our complex located at 1350 East 17<sup>th</sup> Street Kansas City, MO. Bids received after this time will not be accepted. *Bids will be opened and read aloud publicly virtually via TEAMS meeting 1 day after Bid Due date at 2 PM.*

## 02.03.04 Description of Project

KCATA is requesting qualified contractors to provide bids for Pkg 4 – 112 Tram Rail Expansion Joints. The awarded contractor shall provide all equipment, tools, supplies, labor, supervision, insurance, and bonds to perform this work from inception to final acceptance by KCATA.



For this scope of work, "Supplier" shall have the meaning of the entity fabricating and supplying the material scoped in these Books, 1, 2, and 3. Unless noted otherwise, the term "Contractor" shall be interchangeable with Supplier in these documents. Where an apparent conflict is noted, "Construction Contractor" shall be used to differentiate the Supplier from the entity installing the fabricated material (Construction Contractor).

Description of Work: Provide 112 Tram Rail Expansion joint suitable for crossing the Grand Avenue Viaduct in Kansas City, Missouri. The drawings on the plan sheets (BATES 302490 and 302491) are conceptual in nature. The bidders are encouraged to modify these drawing to meet the intent of this early procurement package.

KCATA reserves the right to add to or reduce the scope if it determines it is in the best interest of the KCATA. Scope change may be accomplished by addition/ reduction of quantities or otherwise addition/elimination of work items in their entirety. Contractor shall obtain approval from the KCATA prior to ordering of equipment and materials intended for use to accomplish the Work.

#### 02.03.05           Type of Owner-Contract Agreement

Lump Sum contract - AIA document A-101 Standard Form of Agreement between Owner and Contractor, 2017 Edition and AIA document A-201, 2017 General Conditions (modified to include Federal Transit Administration and KCATA contract conditions).

#### 02.03.06           Prime Contractor Participation

The successful Bidder of this contract must accept responsibilities as the Prime Contractor and perform no less than the percentage amount listed in Section 02.02 on Page 3 with its own supervision and crew. For a DBE Prime Contractor bidder, the minimum participation is also listed in the 02.02 on Page 3.

After bid submittal, none of the work or services covered by this contract shall be subcontracted without prior written approval of the KCATA. The prime contractor shall submit a list of proposed subcontractors and major suppliers with their bid identifying NAICS Codes for each.

#### 02.03.07           Bid Security

A Bid Guarantee in indicated Section 02.02 on Page 3 shall be provided in accordance with the Instructions to Bidders. For this project, the payment bond shall be provided as shown in Section 02.02 on Page 3.

#### 02.03.08           Equal Employment Opportunity

- (1) Contractors shall comply with all federal, state and city Equal Employment Opportunity laws and regulations and with KCATA's Affirmative Action Requirements (AA).
- (2) It is the policy of the Kansas City Area Transportation Authority to ensure that Disadvantaged Business Enterprises (DBE's) are afforded full opportunity to submit Bids, and to receive and participate in KCATA contracts. In the execution of its projects, the KCATA will not discriminate against any individual or organization based on race, color, national origin, religion, age, disability, or sex.
- (3) Prospective Bidders, Sub-Bidders, and major on-site material suppliers will be required to submit certain forms relative to DBE participation, affirmative action and other forms as

indicated in the appendix.

- (4) Blank AA and DBE forms and assistance in completing the forms may be obtained from Whitney Morgan at KCATA. His office is located at 1350 E. 17th Street, Kansas City, Missouri, 64108, or you may call Mr. Morgan at 816-346-0277.

#### 02.03.09 DBE Participation Goal

The KCATA may have established a specific goal for participation by DBE firms on this project. If established, the goal for this project is listed in in Section 02.02 on Page 3 and is 0%. Bidders must submit a "Schedule of Participation by Contractors/Subcontractors" form and the "Letter of Intent to Subcontract" for each DBE firm listed in the Schedule at time of bid submission. Certifications for each subcontractor reflecting compliance with Debarment, Employment Verification, Employment Verification Memo of Understanding and Lobbying must be submitted per request of KCATA following bid submission. **Prime/General Contractors are required to submit all required certifications and documents for their company, per attached checklist, at the time of their bid submission.** Failure to provide this information for DBE subcontractors by the established deadline may result in the bid being deemed non-responsive.

- (1) This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. A goal for DBE participation has been set at 0% for this project.
- (2) The Contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR. Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as KCATA deems appropriate, which may include but is not limited to: 1) withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Contractor from future bidding due to being non-responsible. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).
- (3) The Contractor may not substitute, remove, or terminate a DBE subcontractor without KCATA's prior written consent. Written consent of termination may only be given if the Contractor has demonstrated good cause. 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. The Contractor must give the DBE five days to respond to the 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 Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.

- (a) Good Cause. Good cause includes the following circumstances:

The listed DBE subcontractor fails or refuses to execute a written contract; or

- (i) The listed DBE subcontractor fails or refuses to perform the work of its 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
- (ii) The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
- (iii) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
- (iv) 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
- (v) The DBE subcontractor is not a responsible contractor; or
- (vi) The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal.
- (vii) The listed DBE is ineligible to receive DBE credit for the type of work required.
- (viii) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.
- (ix) 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.

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's Whitney Morgan at [wmorgan@kcata.org](mailto:wmorgan@kcata.org) of its intent to request to terminate and/or substitute, and the reason for the request. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the 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.

#### 02.03.10 Statement of Financial Assistance

This contract is subject to a financial assistance contract between the KCATA and the U. S. Department of Transportation Federal Transit Administration (FTA).

#### 02.03.11 Ineligible Bidders

All Bidders are required to certify they are not on the Comptroller General's list of ineligible contractors.

#### 02.03.12 Completion and Liquidated Damages

- (1) Work shall be completed within the time stated in the bid documents and agreement from the date of the Notice to Proceed. Liquidated damages specified above will be assessed per

calendar day from the scheduled completion date for delay until the Work is substantially complete to the satisfaction of KCATA's Project Manager.

- (2) The Date of Substantial Completion of the Work is the date certified by written Notice that the work is 95% or more complete, except for a minimal list of deficiencies.
- (3) Occupancy or utilization of Completed Work, or a portion of completed work, by the KCATA, does not constitute Substantial Completion or Final Acceptance.
- (4) Contractor has no right to damages for any causes of delay by the KCATA. Scheduling of the Work must be mutually agreed upon by the KCATA and the Contractor before Work can commence. The KCATA's operational requirements are paramount and shall take precedence. A request for an adjustment of time shall be forwarded in writing to KCATA's Project Manager as soon as the Contractor is aware of circumstances beyond the Contractor's control. Requests shall include a statement of cause and expected time delay. The Project Manager may from time to time award extensions to the contract time justified by delay caused by either the Contractor or the KCATA, provided that adequate evidence is presented to enable the Project Manager to determine with exactness the extent and duration of delay for each item involved. Time may only be adjusted by Change Order.
- (5) The Contractor in their submittal of Bid Response Form(s) is undertaking to complete the Work within the stated and agreed contract time, has taken into consideration and made allowances for all of the ordinary delays and hindrances incident to such Work, whether because of delays in procuring equipment, materials, workers or other causes.
- (6) KCATA will suffer financial loss if the Work is not Substantially Complete on the date set forth in the contract documents. The Contractor and/or the Contractor's Surety shall be liable for and shall pay the KCATA the sums previously identified for each day of delay until the Work is Substantially Complete. The KCATA is authorized to withhold from monies due the Contractor the sum as indicated above that has been assessed as liquidated damages.

#### 02.03.13 Pre-Bid Conference

For a pre-bid conference, please see the information below:

- 12/21/2022 2pm Local Time; Link to TEAMS meeting – See Section 02.01 for the hyperlink.

#### 1.3.15 Pre- Award Communications

For information and questions related to this bid Invitation, contact the Procurement Department personnel indicated below. Questions, requests for clarification and comments regarding this Invitation must be submitted in writing and are due from Bidders at the date and time identified above. If required, KCATA will respond in the form of an Addendum.

Denise Adams  
Kansas City Area Transportation Authority  
1200 East 18<sup>th</sup> Street  
Kansas City, MO 64108  
Buyer Phone: 816-346-0224

e-mail : dadams@kcata.org

#### 02.03.14 Potential Bidders

A list of Contractors who have expressed an interest in submitting bids on KCATA projects is available upon request. Since the project is open to all Bidders complying with the bid requirements, other Contractors not on this list may also be submitting bids. Potential bidders list, or plan holders list, may be obtained by submitting a formal question to Denise Adams at dadams@kcata.org.

#### 02.03.15 Contract Documents

The contract documents consist of the following:

- 1 The Agreement Form
- 2 General Conditions
- 3 Supplemental Conditions
- 4 Special Provisions
- 5 Technical Specifications
- 6 Construction Drawings (if applicable)
- 7 Addenda
- 8 Contract Modifications Issued after date of Agreement
- 9 Bid Response Form
- 10 Schedule of Values
- 11 Unit Prices

#### 02.03.16 Wage Rates

The U.S. Department of Labor has established minimum wages to be paid on this project. A copy of the U.S. Department of Labor Federal (General) decision is attached for reference as well as a copy of the Annual Wage Order for Jackson County, Missouri. In the event that there is a discrepancy with regard to rates contained in State of Missouri and U.S. Department of Labor wage rates, the higher of the two rates shall prevail.

### 03 BIDDING REQUIREMENTS

#### 03.01 INSTRUCTIONS TO BIDDERS

##### 03.01.01 General

- (1) All bids shall be made in accordance with the Invitation for Bid and these bidding requirements. All bids will be reviewed by the CFO prior to the letting of any contract.
- (2) Bidders shall note the Equal Opportunity and Affirmative Action requirements applicable to this project. Particular attention should be paid to the related documentation, certification forms, questionnaires, etc., which must be completed and submitted.
- (3) Where the words "KCATA" or "Owner" or "Authority" is used in these instructions, reference is made to the Kansas City Area Transportation Authority.
- (4) Where the words "Project Manual" or "Bid Document" or "Contract Document" are used in the Project Manual, synonymous reference is made to the same instrument including any associated drawings or Addenda issued prior to receipt of bids.
- (5) The bid, along with all other accompanying documents or 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.

##### 03.01.02 Protests

- (1) The following protest procedures apply. "Days" shall mean business days of KCATA administrative personnel which are days other than a Saturday, Sunday or legal holiday observed by KCATA.
  - (a) Pre-Submittal. A pre-submittal protest is received prior to the proposal due date. Pre-submittal protest must be received by the Authority in writing and addressed to the KCATA CFO, no later than five (5) days before the proposal closing date.
  - (b) Post-Submittal/ Pre-Award. A post-submittal/pre-award protest is a protest making an award and is received after receipt of proposals but before award of a contract. Post-submittal protests must be received by the Authority, in writing and addressed to the KCATA CFO, no later than five (5) days after the proposal closing date.
  - (c) Post- Award. A Post-award protest must be received by the Authority in writing and addressed to the KCATA CFO no later than five (5) days from the date of the Notice of Intent to Award.
  - (d) The KCATA CFO shall respond in writing within five (5) days from the date of the written request. If the protester is not satisfied with the response, the protester may appeal in writing to the KCATA CEO. This appeal or request for a hearing should be in writing within five (5) days from the date of the CFO's response.

- (e) The KCATA 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 CEO's response will be provided within ten (10) days after receipt of the request. The Chief Operations Officer's response is final and no further action on the protest shall be taken by KCATA.
- (f) By written notice to all parties, the KCATA CFO may extend the time provided for each step of the protest procedure, extend the date of notice of award, or postpone the award of a contract if deemed appropriate for protest resolution.
- (g) Protesters should be aware of the Federal Transit Administration's protest procedures with the FTA Regional Office. If federal funding is involved, FTA will review protests from a third party only when: 1) KCATA does not have a written protest procedure or fails to follow its procedure, or fails to review a protest, or 2) violations of specific federal laws or regulations have occurred.
- (h) 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 KCATA's decision. Protests shall be addressed to the Regional Administrator, FTA Regional 7, 901 Locust, Room 404, Kansas City, MO 64106.

#### 03.01.03 DBE Participation

KCATA has a goal that a percentage of the Work in this contract be contracted to Disadvantaged Business Enterprises (DBE). The DBE goal for this project is 0%. Bidders must comply in full with 49 CFR Part 26 "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Bidders should contact Whitney Morgan at 816-346-0277 if they have questions or need assistance regarding DBE participation. He may be emailed at [wmorgan@kcata.org](mailto:wmorgan@kcata.org).

Contractor Utilization Plan/Request for Waiver. This is a commitment that the Prime understands the DBE participation required on the project. In the event the Prime is not making a commitment to meet or exceed the established goal on the project, they must request a waiver and provide documentation that good faith efforts were expended to try to meet the goal. Good faith efforts are efforts that, given all relevant circumstances, a Proposer actively and aggressively seeking to meet the goals can reasonably be expected to make.

Failure to meet the contracted DBE participation commitment without documented evidence of good faith efforts may result in termination of the contract. In evaluating good faith efforts, KCATA will consider whether the Proposer has performed the following, along with any other relevant factors:

- (1) Advertised opportunities to participate in the contract in general circulation media, trade and professional association publications, small and minority business media, and publications of minority and women's business organizations in sufficient time to allow DBE firms to participate effectively.
- (2) Provided notice to a reasonable number of minority and women's business organizations of specific opportunities to participate in the contract in sufficient time to allow DBE firms to participate effectively.

- (3) Sent written notices, by certified mail or facsimile, to qualified DBEs soliciting their participation in the contract in sufficient time to allow them to participate effectively.
- (4) Attempted to identify portions of the work for qualified DBE participation in order to increase the likelihood of meeting the goals, including breaking down contracts into economically feasible units. A Bidder should send letters by certified mail or facsimile to those DBE contractors identified by the Missouri Regional Certification Committee (MRCC) listed in those categories, which are in those subcontractors' scope of work. The portion of work for which a proposal from a DBE is being solicited shall be as specific as possible. Letters which are general are not acceptable.
- (5) Requested assistance in achieving the goals from KCATA's DBE Officer and acted on KCATA's recommendations.
- (6) Conferred with qualified DBEs and explained the scope and requirements of the work for which their bids or proposals were solicited.
- (7) Attempted to negotiate in good faith with qualified DBEs to perform specific subcontracts; not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Documentation of good faith negotiations with DBEs from whom proposals were received in an effort to reach a mutually acceptable price should include:
  - (a) Names, addresses and telephone numbers of DBEs that were contacted and date of contact.
  - (b) The information provided to DBEs regarding the plans and specifications for portions of the work to be performed by them.
  - (c) The reasons no agreement was reached with any DBE, including the basis for any Bid rejection (i.e., availability, price, qualifications or other);
  - (d) Descriptions of attempts to provide technical assistance to DBEs to obtain necessary insurance and/or to obtain necessary supplies at the best prices available.

03.01.04 Bid Documents

- (1) Bid documents include the Notice of Invitation For Bids, Invitation For Bids, Bidding Requirements, Submittal Documents, Post Proposal Submittal Documents, and Wage Rates.
- (2) Bidders shall use complete sets of the Project Manual and accompanying drawings in preparing bids. The KCATA and the Architect assume no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- (3) Bidder is required to submit, in addition to bid response form(s), the documents identified as REQUIRED DOCUMENTS LIST FOR BID SUBMISSION
- (4) Requests for interpretation or clarification of the bidding documents shall be directed to Denise Adams of KCATA via email (dadams@kcata.org) by deadline shown in Section 02.01



BIDDING SCHEDULE on Page 3. KCATA's practice is to answer questions via Addendum for purposes of transmitting the same information to all interested bidders.

03.01.05 Bid Submittal and Pricing

- (1) Prior to bidding, each Bidder shall carefully examine the bidding documents and the site to fully understand existing conditions and limitations under which the Work is to be performed. Each Bidder shall include in its bid a sum to cover the cost of all items necessary to perform the Work as set forth in the contract documents.
- (2) No allowance will be made to any Bidder because of failure to examine the Documents and the site. Bidders shall notify KCATA immediately if any inconsistency or error is discovered upon examination of the bidding documents or the project site.
- (3) In submitting a bid, the bidder represents that:
  - (a) Offeror has read and understands the bidding documents.
  - (b) Offeror has visited the site and familiarized himself with the conditions under which the Work is to be performed.
  - (c) Offeror's bid is based on the materials, systems, products, and equipment required by the Bidding Documents, without exception.
- (4) The intent of the bid documents is to provide ample information for the Contractor to interpret and understand that the labor, equipment, supplies and any other components and/or accessories required for the completion of the type prescribed, ready for use by the KCATA, be provided by Contractor. Any items omitted from the documents which are clearly necessary for the full operation and use of such equipment or improvements and its appurtenances shall be considered a portion of such work or equipment, although not directly specified or called for in these documents.
- (5) All parts shall be new and in no case will used (except for testing), reconditioned or obsolete parts be accepted. Any one part shall be an exact interchangeable duplicate in manufacture and design and furnished as specified, but where brand names are used, consider the term "or approved equal" to follow.
- (6) Bids shall be firm and final. Bids shall be net and shall reflect any available discount. KCATA is exempt from federal excise, federal transportation and state sales tax and such taxes shall not be included in price quotations. KCATA will provide the successful bidder with a project Tax Exemption Certificate.
- (7) Bids shall be submitted on the Bid Response Form provided; bids submitted in any other form will be considered non-responsive and will be rejected. Do not change, add to, or delete from the wording on the Bid Response Form. Unauthorized conditions, limitations, or provisions attached to the Bid Response Form may cause the Bid to be considered non-responsive and, therefore rejected.

- (a) Bid Response Forms shall be filled out by typewriter, electronically or manually in black or blue ink.
  - (b) Alterations by erasure or inter-lineation shall be initialed.
- (8) Prior to bidding, each Offeror shall ascertain that they have received all Addenda issued and shall acknowledge their receipt in the space provided in the Bid Form. Any interpretation, change, or correction to the bid documents will be made by Addenda which will be issued to all bidders of record and all locations where bid documents are filed. Only written addenda will be binding. Bidders shall not rely on any interpretation, change, or correction given by any other method. Oral statements made at the pre-bid conference or bid opening are non-binding and for clarification only.
- (9) Each bid shall be executed and signed by an authorized official and in the true name of the bidder. If the bid is made by an individual doing business under a fictitious name, 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 the bid shall be signed by one principal member. If the bid is made by a corporation, it shall be signed in the corporate name by an authorized officer. 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 the bid shall be signed by one member authorized thereof.
- (10) Bids shall be enclosed in a sealed envelope addressed as indicated in the Invitation for Bid, unless changed by addendum, with the name of the project and the name of the bidder on the outside of the envelope.
- (11) Refer to Invitation for Bid for location, time, and date designated for receipt of bids.
- (a) Bids received after the date and time designated for receipt of bids will not be accepted and will be returned to the bidder unopened.
  - (b) Telegraphic, facsimile, electronic, email or telephonic bids or modifications to bids will not be accepted.
- (12) The bid price shall include all items of labor, materials, tools, equipment, transportation, and other costs necessary to fully complete the construction, delivery, assembly, installation, and drawings, if required, of the materials or services pursuant to these conditions.
- (13) Conditional bids and any bid taking exception to these instructions or conditions, to the contract conditions or specifications, or to other contract requirements may be considered non-responsive and may be rejected.
- (14) The documents specified to accompany the bid are enumerated on the Checklist Form and shall be included with the bid form. The bidder shall read all forms carefully before signing. Incomplete bids may be considered non-responsive.
- (15) Each bid is to be submitted with the understanding that the acceptance in writing by KCATA of the bid to furnish the materials and services or any part thereof described therein shall

constitute a contract between the bidder and KCATA which shall bind the bidder to furnish and deliver at the given price and in accordance with the terms and conditions of said bid and these conditions.

(16) Kansas City Area Transportation Authority reserves the right to accept ADD Alternates for this bid only if the budget allows for acceptance. There is no guarantee to bidders that the alternates will be accepted or become a part of the contract.

(17) Alternates, if applicable, will be accepted at the discretion of KCATA's budget and bidder will be notified of acceptance with intent to award letter. Alternates pricing shall remain for a period of 60 days beyond bid due date.

#### 03.01.06 Bid Security

(1) A bid bond in the amount of five percent (5%) of the total bid is required. Said bond shall be submitted with the bid response. The bond is required to assure that the bidder will, upon acceptance of its bid, meet the requirements of the bid. A bidder may submit a certified check or cashier's check in lieu of a bond. Failure to submit a bid bond, certified check, or cashier's check along with the bid may result in the bid being considered non-responsive. Bid bonds/checks will be returned to bidders, upon request, after execution of contractual documents and submittal of the required bonds by the successful bidder.

(2) Bidders requiring technical assistance on bonding may call the Kansas City Regional Small Business Administration's Minority Business Opportunity Center (MBOC) at (816) 513-6817, or the local Small Business Administration or MBOC in your city or state.

(3) The KCATA will have the right to retain the bid Security of any or all bidders until one of the following has occurred:

(a) The contract has been executed and required contract bonds are furnished.

(b) The specified time has elapsed so that bids may be withdrawn.

(c) All bids have been rejected by KCATA.

(4) If any bidder refuses to enter the contract or fails to furnish the required contract bonds, his bid security may be forfeited to the KCATA as liquidated damages, but not as penalty.

#### 03.01.07 Withdrawal of Bids

(1) Bids may be withdrawn on written request received by the KCATA prior to the time fixed for bid opening. The bond or certified check of any bidder withdrawing its bid, in accordance with the foregoing condition, will be returned promptly.

(2) For this bid, no bids or unit prices may be withdrawn for a period of ninety (90) days after the actual date of the bid opening. Alternates pricing, if applicable, shall remain fixed, as submitted for bid, for nine (90) days after the actual date of bid opening.

## 03.01.08 Bid Consideration and Contract Award

- (1) The KCATA intends to award a contract to the responsive and responsible bidder whose fair and reasonable bid conforming to this solicitation is the lowest in price. A responsive bid meets the requirements of the Invitation for Bid. KCATA expects bidders to demonstrate affirmatively that it and its proposed subcontractors qualify as responsible.
- (2) In addition to being otherwise qualified and eligible to receive the contract award, a responsible contractor satisfies criteria including:
  - (a) Administrative and Technical Capacity. Has the necessary organization, experience, accounting and operational controls, and technical skills to successfully perform the contract?
  - (b) Financial Resources. Contractor has sufficient financial resources to perform the contract. KCATA reserves the right to request and inspect the last 2 years audited financials for Prime and Sub Contractors. Failure to provide the requested information may result in forfeiture of the bid.
  - (c) Production Capability. Has the necessary construction and technical equipment and facilities.
  - (d) Timeliness. Can meet the performance schedule, taking into consideration all existing business commitments.
  - (e) Performance Record. Can provide a satisfactory current performance record and a satisfactory past performance record to include sufficient resources, sufficient key personnel with appropriate experience, and key subcontractors with the required experience and satisfactory current and past performance.
  - (f) Experience. A minimum of five (5) years' experience in carrying out similar work with particular attention to management approach, staffing, timeliness, technical success, budgetary controls, and other specialized considerations, as described herein.
  - (g) Past Deficiencies Not the Fault of the Bidder. A bidder that is or recently has been seriously deficient in contract performance is presumed to be non-responsible unless KCATA determines that the circumstances were properly beyond the bidder's control or unless the bidder has taken appropriate corrective action. Past failure to pursue the work, perseverance, and effort to perform acceptably is strong evidence of non-responsibility.
- (3) Bidders are required to submit for KCATA's approval, a list of subcontractors and material suppliers proposed for the project, also known as the schedule of participation, with all NAICS codes listed for each proposed subcontractor.
- (4) Award of contract shall be based on the lowest responsible, responsive bid offering the lowest aggregate base bid amount. All bids will be evaluated on the same basis of bid items.

- (5) The Authority may determine that a bid is unacceptable and non-responsive if the prices proposed are materially unbalanced between line items or sub-line items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated relative to cost for other work, and if there is a reasonable doubt that the offer will result in the lowest overall cost to the Authority even though it may be the low bid.
- (6) It is understood that KCATA reserves the right to waive informalities or irregularities in bids, to reject any or all bids, to cancel this Invitation in part or in its entirety, to re-advertise for bid, and to award to other than the lowest bidder if it is in the best interest of the Authority. KCATA further reserves the right to accept or reject any or all alternates in any order or combination which, in its judgment, 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 Invitation for Bid.
- (7) The successful bidder shall execute a contract with the KCATA within ten (10) calendar days from written Notice of Intent to Award. Before execution of the contract, the successful bidder shall deliver required bonds, insurance certificates and other specified documents to KCATA for approval.

03.01.09 Construction Bonds and Certificate of Insurance

- (1) The successful bidder may be required to furnish and pay for a Performance Bond, a Payment Bond, and a Maintenance Bond each in the amounts listed in the Invitation for Bid, as stated herein and in accordance with the General Conditions as amended by the Supplementary Conditions. The cost of the bonds shall be included in the bid price. If required, the Maintenance Bond shall be for a two (2) year period effective as of the date of Substantial Completion.
- (2) The Bidder shall warrant both workmanship and materials for a period of two (2) years pursuant to Article 3: Contractor, Section 3.5 Warranty or as amended by the Supplemental Conditions. The two (2) year maintenance bond (if required) becomes effective on the date of project acceptance as established by the Certificate of Substantial Completion.
- (3) Bonds shall be issued by a surety acceptable to the KCATA and licensed to do business in the State of Missouri.
- (4) The attorney-in-fact who executes the required bonds on behalf of the surety shall affix thereto a current copy of the power-of-attorney indicating the monetary limits of such power.
- (5) The successful bidder shall submit Certificates of Insurance, verifying insurance coverage as stated herein, within the period time indicated in the Notice of Intent to Award.
- (6) Failure or refusal to furnish bonds or insurance certificates in the time prescribed and in a form satisfactory to the KCATA may be cause for rejection of the bidder and forfeiture of the bid security.

## 03.01.10 List of Subcontractors and Material Suppliers

The successful bidder shall submit a complete list of all subcontractors and major material suppliers at the time of bid closing. The representative's name, address and telephone number shall be provided with the dollar amount of the contractor's/subcontractor's/vendor's involvement.

## 03.01.11 Debarment, Suspension and Other Responsibility Matters

- (1) Each bid shall be accompanied by a Certificate of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters.
- (2) Submit a Certification Regarding Debarment, Suspension, And Other Ineligibility and Voluntary Exclusion for each lower tier subcontractor and major supplier.

## 03.01.12 Restrictions on Lobbying

Each bid shall be accompanied by a signed Certification of Primary Participants Regarding Restrictions on Lobbying form.

## 03.01.13 Fraud and False or Fraudulent Statements or Related Acts

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 C.F.R. Part 31, apply to its actions pertaining to the project. Upon execution of this Contract, the Contractor certifies or 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.

The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification 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.

## 03.01.14 Employee Eligibility Verification

- (1) 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 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. **The electronically signed and electronically generated Memo of Understanding (MOU) must be submitted by the Prime for the Prime Company and an MOU is to be submitted for each subcontractor with a work/contract value of \$5,000 or greater in addition to the Certification document.**

- (2) 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.

03.01.15 Buy America

- (1) The Contractor agrees to comply with 49 U.S.C. §5323(j), and 49 CFR. Part 661, which provide that federal fund may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment & software. Separate requirements for rolling stock are set out at 5323(j) (2)(C) and 49 CFR Part 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 70 percent domestic content.
- (2) The Contractor further agrees to include these requirements in all subcontracts exceeding \$150,000.
- (3) In the event that ocean shipment is required for any material or commodity pursuant to this agreement, the Contractor agrees to utilize United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, to the extent such vessels are available at fair and reasonable rates for the United States-Flag commercial vessels.
- (4) The Contractor further agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on board" commercial ocean bill-of-lading in English for each shipment of cargo described in the paragraph above to KCATA (through the Prime Contractor in the case of subcontractor bill-of-lading) and to the Office of Cargo Preference, Maritime Administration (MAR-590), 400 Seventh Street, S.W., Washington, DC, 20590.
- (5) The Contractor further agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, materials or commodities by ocean liner and exceeds \$100,000.
- (6) The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Service Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub-recipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was

necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation and exceed \$100,000.



## 04 REQUIRED DOCUMENTS LIST FOR BID SUBMISSION

### 04.01 At Bid Submission

The following forms and or items shall be submitted with the Bid:

- Bid/Proposal Response Forms – See Section 05 on Page 24
- Bid Bond (or if submitting cashier's check or certified check Ability to Bond form must accompany check)
- Vendor Registration Form – Use the link in this form if not currently on KCATA's Vendor's List. Bidders who have submitted the form within the past two (2) years, so indicate on blank form and submit with bid. If not registered to do business with KCATA use form provided or go to [www.kcata.org](http://www.kcata.org) to download registration form. Due at time of bid for those who are not currently registered with KCATA. See ATTACHMENT A KCATA VENDOR REGISTRATION FORM in Section 06 on Page 31
- Affidavit of Civil Rights Compliance, EEO-1/ KCATA Workforce Analysis/EEO 1 Report. EEO required for each PRIME CONTRACTOR. See ATTACHMENT B AFFIDAVIT OF CIVIL RIGHTS COMPLIANCE in Section 07 on Page 32
- Letter of Intent to Subcontract - The Bidder/Offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform, including the corresponding NAICS code; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) each Letter of Intent must be signed and dated by the subcontractor; and (6) if the contract goal is not met, the contractor must present evidence of good faith efforts. Please note, the subcontractor(s) and dollar amounts listed on the final bid submission cannot be altered. KCATA will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. KCATA will require the prime contractor to notify the DBE Liaison Officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, KCATA will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation. Please see the attachment for more information on "Good Faith Efforts." See ATTACHMENT C SCHEDULE OF PARTICIPATION BY CONTRACTOR & SUBCONTRACTORS in Section 08 on Page 34
- Schedule of Participation (S.O.P) by Contractor/Subcontractor - Include ALL SUBS/Lower Tier Participants to be used on project. No alterations to this document allowed when submitting 48-hour S.O.P.) KCATA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation. See ATTACHMENT D LETTER OF INTENT TO SUBCONTRACT TO DBE in Section 09 on Page 36
- DBE Certification Verification (Submit copy of MRCC approval letter for all DBE contractors included in bid. DBE contractors not currently registered should contact the KCATA Grants and Disadvantaged Business Enterprise Specialist at 816-346-0277 and complete registration prior to bid submittal.) Submit one form if Prime is a DBE and one form for each proposed DBE Subs/Lower Tier. See ATTACHMENT E CONTRACTOR UTILIZATION PLAN/REQUEST FOR WAIVER in Section 10 on Page 37
- Employee Eligibility Verification/MOU (form provided)
  - For Prime Contractor, see ATTACHMENT F.1 EMPLOYEE ELIGIBILITY AFFIDAVIT OF PRIMARY

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- PARTICIPANTS in Section 11 on Page 40
    - For Lower Tier Participants, see ATTACHMENT F.2 EMPLOYEE ELIGIBILITY AFFIDAVIT OF LOWER-TIER PARTICIPANTS in Section 12 on Page 42
  - Debarment Certification
    - For Prime Contractor, see ATTACHMENT G.1 CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS in Section 13 on Page 44
    - For Lower Tier Participants see ATTACHMENT G.2 CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION in Section 14 on Page 45
  - Buy America Certification (form provided) FOR PRIME CONTRACTOR – See form ATTACHMENT H.1 on Page 46
  - Contractor’s Relative Experience/Reference Form – See ATTACHMENT I REFERENCES in Section 16 on Page 47. Bidder may submit existing company reference sheet with same information in lieu of form – please label reference sheet at Attachment I – References.
  - Non-Collusion Affidavit – See ATTACHMENT J NON-COLLUSION AFFIDAVIT in Section 17 on Page 48
  - Certification Regarding Restrictions on Lobbying
    - For Prime Contractor, see ATTACHMENT L-1 CERTIFICATION OF PRIMARY PARTICIPANTS REGARDING RESTRICTIONS ON LOBBYING in Section 19 on Page 50
    - For Lower Tier Participants, see ATTACHMENT L-2 CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING RESTRICTIONS ON LOBBYING in Section 20 on Page 51
  - Certification Regarding Federal Tax Liability and Recent Felony Convictions
    - For Prime Contractor see ATTACHMENT N-1 CERTIFICATION OF PRIMARY PARTICIPANT REGARDING FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS in Section 21 on Page 52
    - For Lower Tier Participants, see ATTACHMENT N-2 CERTIFICATION OF LOWER-TIER PARTICIPANT REGARDING FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS in Section 22 on Page 53

#### 04.02 Prior to NTP

After a request by KCATA, the follow shall be submitted by the Intended Awardee.

- Proposed Schedule & Labor
- Certificate of Insurance (to be submitted after Intent to Award Letter is issued to apparent low bidder per letter instructions)
- Performance Bond and Payment Bond – If Applicable (Submit within the number of days stated in Intent to Award Letter – applicable only to notified apparent low bidder)

#### 04.03 During the Contract Term

During the term of the contract, the following may be requested or submitted.

- Request for Modification, Replacement or Termination of DBE Participation (Required to be submitted in advance of any project/bid modification for approval)
- Prime’s Contracts with Subcontractors (KCATA reserves the right to request from Prime Contractor for review for duration of project term)
- Maintenance Bond (Submitted prior to final payment to successful Contractor. Effective date of Maintenance Bond shall be left blank and will be established by issue Date of Notice of Substantial Completion)
- Subcontractor Monthly Utilization Report and Certified Payroll Reports (Shall accompany each payment

application)

- Compliance with Prevailing Wage Certification (Shall accompany each payment application)
- Prevailing Wage Affidavit – See ATTACHMENT K AFFIDAVIT – COMPLIANCE WITH PREVAILING WAGE LAW in Section 18 on Page 49

#### 04.04 Administration Reconsideration 26.53(D)

The Bidder/Offeror must make a written request for administrative reconsideration within five (5) working days of the notification on their bid being deemed “non-responsive” for a lack of “good faith efforts.” That notice must be mailed or emailed to:

Whitney Morgan - DBELO  
KCATA  
1350 East 17<sup>th</sup> Street  
Kansas City, MO 64108  
Telephone: (816) 346-0277  
E-Mail: [wmorgan@kcata.org](mailto:wmorgan@kcata.org)

KCATA’s Administrative Review Committee is comprised of the Deputy CEO, Director of Procurement, and the Vice President Finance & Procurement. The DBELO will process the request, including providing documentation of the determination, and notify the Administrative Review Committee of the request for reconsideration determination. The reconsideration committee will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts. As part of the reconsideration, the bidder will have the opportunity to provide written documentation or argument to the Administrative Review Committee, concerning the issue of whether they met the goal or made adequate “good faith efforts.” KCATA will notify the bidder, in writing of the decision on reconsideration, explaining the basis of finding that the bidder did or did not meet the goal, or make adequate “good faith efforts” to do so. The bidder may choose to meet in person with the Administrative Review Committee to discuss the findings. The result of the reconsideration process is not administratively appealable to the USDOT.

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**05 BID RESPONSE FORM****05.01 BID RESPONSE FORM**

This proposal is submitted to:

Procurement Director  
Kansas City Area Transportation Authority  
1350 E. 17<sup>th</sup> Street  
Kansas City, Missouri 64108

The undersigned Contractor proposes and agrees, if this Proposal is accepted, to enter into an agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract duration indicated in this Proposal and in accordance with the other terms and conditions of the Contract Documents.

Contractor accepts all the terms and conditions of the Bidding Documents. This Proposal will remain subject to acceptance for Ninety (90) days after the final day Proposals may be received. Contractor will sign and submit the Agreement with the Bonds and other documents required by the Proposal Requirements within ten (10) business days after the date of OWNER'S Notice of Intent to Award.

In submitting this Proposal, Contractor represents, as more fully set forth in the Agreement, that:

Contractor has examined and carefully studied copies of all the Proposal Documents and of the following Addenda (receipt of all which is hereby acknowledged):

Addendum Number

Date

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contractor has visited the site and become familiar with the nature and extent of the Contract Documents, Work site, locality, and all local and site conditions. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

Contractor has given Procurement personnel written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Procurement personnel is acceptable to Contractor.

The Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation.

Contractor has not directly or indirectly induced or solicited any other Contractor to submit a false or sham Proposal; Contractor has not solicited or induced any person, firm or corporation to refrain from submitting a Proposal; and

Contractor has not sought by collusion to obtain for itself any advantage over any other Contractor or over Owner.

Contractor has carefully studied all reports (if applicable) of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purposes. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary information concerning conditions at or contiguous to the site which may affect cost, progress, performance or furnishing of the Work. Contractor does not consider that any additional examinations, investigations, explorations, tests, studied or data are necessary for the determination of this Proposal for performance and furnishing of the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

Contractor is aware of the general nature of Work to be performed by Owner and others at the site that relates to Work for which this Proposal is submitted as indicated in the Contract Documents.

## 05.02 PRICE PROPOSAL

The Contractor will complete the work and accept in full, payment for the work items listed, in accordance with the attached Bid Tab prices, as applicable.

Contractor acknowledges that in the case of a Unit Price Proposal, quantities are not guaranteed, and final payment will be based on actual quantities determined as provided in the Contract Documents.

Contractor acknowledges that in the case of a Stipulated Lump Sum Price Proposal, quantities are not guaranteed, and Owner reserves the right to add or delete work which is in the best interest of the Owner. Contractor agrees that final payment will be based on the Proposal Lump Sum Price adjusted by change orders regardless of actual quantities.

1. Contractor proposes that the Work will be completed in accordance with Contract Completion requirements noted in Section 02.02.01 on Page 3 of the Invitation For Bids. This Proposal is a binding offer and all required submittal documents are made a condition of this Proposal.
2. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, or sex in connection with the performance of work under this contract.
3. Communications concerning this Proposal shall be addressed to the address of Contractor indicated below.
4. The terms used in this Proposal which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meaning assigned to them in the General Conditions.

## 05.03 Contractor Form of Business

Information regarding the Contractor's form of business shall be provided in the appropriate section below. (Each form of business signature page is included on a separate page – only one type of Form of Business page with signatures is required – submit (as appropriate) only the Individual, Partnership, Corporation, or Joint Venture completed signature page.)

05.03.01      An Individual:

\_\_\_\_\_  
By (Individual's Name)

\_\_\_\_\_  
(Business Name and Address)

\_\_\_\_\_  
Business Phone and Fax Numbers

05.03.02      A Partnership:

\_\_\_\_\_  
By (Firm Name)

\_\_\_\_\_  
(Business Name and Address)

\_\_\_\_\_  
(General Partner)

\_\_\_\_\_  
Business Phone and Fax Numbers

(seal)

05.03.03      A Corporation:

---

By (Corporation Name)

---

Address

---

(State of Incorporation)

---

Business Phone and Fax Numbers

---

By (Printed Name and Title of Person Authorized to Sign)

---

(Signature)

---

Attest (Secretary)

---

Date of Qualification to do Business

(Corporate Seal)



05.03.04      A Joint Venture:

---

By (Name)

---

Address

---

By (Name)

---

Address

---

Phone Number for Receipt of Official Communication

---

Address for Receipt of Official Communication

(Each joint venture must sign. The manner of signing for each individual, partnership and corporation that is a party to the joint venture should be in the manner indicated above.)

05.04 Bid Form

See and use the Bid Form inserted after the title page of Book 1.

## 06 ATTACHMENT A KCATA VENDOR REGISTRATION FORM

“KCATA VENDOR REGISTRATION FORM”. KCATA has migrated to an online vendor registration process:

All firms (prime contractors, subcontractors, and suppliers) doing business with KCATA must complete a vendor registration process. KCATA uses an online vendor management system (B2GNow). *Vendors that have previously registered with KCATA must now also complete the online process with updated information.*

To begin, you must set up an account at <https://kcata.diversitycompliance.com> where you will be given a temporary password. You will receive a confirmation email and be directed to change your password. You may follow the instruction guide to complete the process. B2GNow also conducts webinars that provide guided training on navigating the system and its available features.

For questions regarding this process, please contact Denise Adams.

## 07 ATTACHMENT B AFFIDAVIT OF CIVIL RIGHTS COMPLIANCE

State of \_\_\_\_\_)

) SS.:

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:

07.01.01      **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.

07.01.02      **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 (Printed Name and Title)

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Date

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

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

\_\_\_\_\_  
My Commission Expires

(seal)

## 08 ATTACHMENT C SCHEDULE OF PARTICIPATION BY CONTRACTOR & SUBCONTRACTORS

This form shall be completed in its entirety and submitted at time of bid submission

<b>PRIME CONTRACTOR</b>					
Name and Address	Telephone No. Fax No.	Type of Work To Be Performed	NAICS Code	Value of Work	DBE % Participation
				\$	%
<b>PARTICIPATION BY SUBCONTRACTOR(S) AND MAJOR SUPPLIERS – DBE &amp; NON-DBE</b>					
Name and Address	Telephone No. Fax No.	Type of Work To Be Performed	NAICS Code	Value of Work	DBE % Participation
				\$	%
				\$	%
				\$	%
				\$	%
				\$	%
				\$	%

TOTAL VALUE OF WORK	\$ _____
TOTAL CONTRACT VALUE OF WORK (from Bid Form)	\$ _____
TOTAL DBE PARTICIPATION	\$ _____
TOTAL PERCENTAGE OF DBE PARTICIPATION (Prime and Subcontractors)	_____ %

The undersigned will enter into a formal agreement with the subcontractor(s) for the work listed on this schedule.

\_\_\_\_\_  
By (Prime Contractor Name)

\_\_\_\_\_  
Printed Name of Authorized Official

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

\_\_\_\_\_  
Date

---

**09 ATTACHMENT D LETTER OF INTENT TO SUBCONTRACT TO DBE**

This form shall be completed for each DBE Subcontractor and is DUE AT TIME OF BID SUBMISSION)  
\_\_\_\_\_ (“Prime Contractor”) agrees to enter a contractual agreement with  
\_\_\_\_\_ (“DBE Subcontractor”), who will provide the following  
goods/services in connection with the above-referenced contract:

(Insert a brief narrative describing the goods/services to be provided. Broad categorizations (e.g., “electrical,” “plumbing,” etc.) or the listing of the NAICS Codes in which DBE Subcontractor is certified are insufficient and may result in this Letter of Intent to Subcontract not being accepted.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

for an estimated amount of \$ \_\_\_\_\_ or \_\_\_\_\_ % of the total estimated contract value.

DBE Subcontractor is currently certified with the Missouri Regional Certification Committee (MRCC) to perform in the capacities indicated herein. Prime Contractor agrees to utilize DBE Subcontractor in the capacities indicated herein, and DBE Subcontractor agrees to work on the above-referenced contract in the capacities indicated herein, contingent upon award of the contract to Prime Contractor.

\_\_\_\_\_

By (Printed Name of Prime Contractor Representative)

\_\_\_\_\_

By (Printed Name of DBE Subcontractor Representative)

\_\_\_\_\_

(Title of Prime Contractor Representative)

\_\_\_\_\_

(Title of DBE Subcontractor Representative)

\_\_\_\_\_

(Signature of Prime Contractor Representative)

\_\_\_\_\_

(Signature of DBE Subcontractor Representative)

\_\_\_\_\_

Date

\_\_\_\_\_

Date



---

**10 ATTACHMENT E CONTRACTOR UTILIZATION PLAN/REQUEST FOR WAIVER**

#F23-5001-39A

Pkg 4 – 112 Tram Rail Expansion Joints

Project Number

Project Title

---

Prime Contractor

State of \_\_\_\_\_)

) SS.:

County of \_\_\_\_\_)

I, \_\_\_\_\_, of lawful age and upon my oath state as follows:

This Affidavit is made for the purpose of complying with the provisions of the Disadvantaged Business Enterprise (DBE) submittal requirements on the above project and the DBE Program and is given on behalf of the Bidder/Proposer listed below. It sets out the Bidder/Proposer's commitment to utilize DBE contractors on the project.

The project goal for DBE Participation is \_\_\_\_\_%. Bidder/Proposer assures that it will utilize a minimum of the following percentages of DBE participation in the above project:

BIDDER/PROPOSER DBE PARTICIPATION COMMITMENT: \_\_\_\_\_%

The following are the DBE subcontractors whose utilization Bidder/Proposer warrants will meet or exceed the above-listed Bidder/Proposer Participation. Bidder/Proposer warrants that it will utilize the DBE subcontractors to provide the goods/services described in the applicable Letter(s) of Intent to Subcontract, (copies of which shall collectively be deemed incorporated herein). ***All firms must currently be certified with the Missouri Regional Certification Committee (MRCC) under 49 CFR Part 26. List additional DBEs, if any, on an additional page and attach to this form.***

a. Name of DBE Firm \_\_\_\_\_ % of Work \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Taxpayer ID No. \_\_\_\_\_

b. Name of DBE Firm \_\_\_\_\_ % of Work \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Taxpayer ID No. \_\_\_\_\_

c. Name of DBE Firm \_\_\_\_\_ % of Work \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Taxpayer ID No. \_\_\_\_\_

TOTAL DBE \$ AMOUNT ON PROJECT: \$ \_\_\_\_\_

TOTAL DBE % COMMITTED TO PROJECT: \_\_\_\_\_ %

Bidder/Proposer acknowledges that the monetary amount to be paid each listed DBE for their work, and which is approved herein, is an amount corresponding to the percentage of the total contract amount allocable to each listed DBE as calculated in the **Schedule of Participation by Contractor and Subcontractors** form. Bidder/Proposer further acknowledges that this amount may be higher than the subcontract amount listed therein as change orders and/or amendments changing the total contract amount may correspondingly increase the amount of compensation due a DBE for purposes of meeting or exceeding the Bidder/Proposer participation commitment.

Bidder/Proposer acknowledges that it is responsible for considering the effect that any change orders and/or amendments changing the total contract amount may have on its ability to meet or exceed the Bidder/Proposer participation. Bidder/Proposer further acknowledges that it is responsible for submitting a **Request for Modification or Substitution** form if it will be unable to meet or exceed the Bidder/Proposer participation set forth herein.

If Bidder/Proposer has not achieved the DBE commitment set for this Project, Bidder/Proposer hereby requests a waiver of the DBE commitment that Bidder/Proposer has failed to achieve.

Bidder/Proposer will present documentation of its good faith efforts, a narrative summary detailing its efforts and the reasons its efforts were unsuccessful when requested by KCATA.

I hereby certify that I am authorized to sign this Affidavit on behalf of the Bidder/Proposer named below and who shall abide by the terms set forth herein:

Bidder/Proposer Primary Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Facsimile number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

By \_\_\_\_\_

(Signature)

Title \_\_\_\_\_

Date \_\_\_\_\_

(Attach corporate seal if applicable)

NOTARY:

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

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

\_\_\_\_\_  
My Commission Expires

(seal)

**11 ATTACHMENT F.1 EMPLOYEE ELIGIBILITY AFFIDAVIT OF PRIMARY PARTICIPANTS**

Compliance with Section 285.500 RSMO, et seq. Regarding employee eligibility verification

State of \_\_\_\_\_ )  
 ) SS.:  
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.

\_\_\_\_\_  
By (Printed Name)

\_\_\_\_\_  
Signature and Title of Affiant

\_\_\_\_\_  
Date

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

\_\_\_\_\_

Notary Public

My Commission Expires

(seal)

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.

**12 ATTACHMENT F.2 EMPLOYEE ELIGIBILITY AFFIDAVIT OF LOWER-TIER PARTICIPANTS**

COMPLIANCE WITH SECTION 285.500 RSMO, ET SEQ.

REGARDING EMPLOYEE ELIGIBILITY VERIFICATION

State of \_\_\_\_\_ )  
 ) SS.:  
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.

\_\_\_\_\_  
By (Printed Name)

\_\_\_\_\_  
Signature and Title of Affiant

\_\_\_\_\_  
Date

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

---

Notary Public

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My Commission Expires

(seal)

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.

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### **13 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:

- 13.01.01      Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- 13.01.02      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;
- 13.01.03      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
- 13.01.04      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 2 CFR PART 1200; 2 CFR PART 180; AND 49 CFR PART 29, SUPBART C ARE APPLICABLE THERETO.

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

\_\_\_\_\_  
Date



## **14 ATTACHMENT G.2 CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**

The Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third party Contractor, or potential subcontractor under a major third party contract) \_\_\_\_\_, certifies, by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third-party Contractor, or potential subcontractor under a major third-party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this bid.

THE LOWER-TIER PARTICIPANT (POTENTIAL SUB-GRANTEE OR SUB-RECIPIENT UNDER AN FTA PROJECT, POTENTIAL THIRD-PARTY CONTRACTOR, OR POTENTIAL SUBCONTRACTOR UNDER 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 2 CFR PART 1200; 2 CFR PART 180; AND 49 CFR PART 29, SUPBART C ARE APPLICABLE THERETO.

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

\_\_\_\_\_  
Date

**15 ATTACHMENT H.1 BUY AMERICA CERTIFICATION FORM FOR PRIME CONTRACTOR  
FOR STEEL OR MANUFACTURED PRODUCTS OTHER THAN ROLLING STOCK**

The bidder shall certify one of the following two certifications.

**15.01.01 Certificate of Compliance with Buy America Requirements**

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Company: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**15.01.02 Certificate of Non-Compliance with Buy America Requirements**

The bidder or offeror hereby certifies that it cannot meet the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirements consistent with 49 U.S.C. 5323(j)(2) as amended, and the applicable regulations in 49 CFR 661.7.

Date: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Company: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**16 ATTACHMENT I REFERENCES**

Please provide the firm name, primary contact person's name, business and cell phone number(s), and email address for references we may contact about your company's performance on similar scopes of work/projects. Name the project and approximate work value.

Failure to provide accurate information for KCATA to use in communicating with references may result in your bid being deemed non-responsive.

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**17 ATTACHMENT J NON-COLLUSION AFFIDAVIT**

This form shall be executed by the Bidder and submitted with the bid.

State of \_\_\_\_\_ )  
 ) SS.:  
County of \_\_\_\_\_ )

\_\_\_\_\_  
Name and Title of Person Signing

\_\_\_\_\_  
Name of Bidder

The above-named individual being first duly sworn, deposes and says that he or she is of the above Bidder and that all statements made, and facts set out in this bid for the Pkg 4 – 112 Tram Rail Expansion Joints are true and correct and that the bidder (firm, person, association, or corporation making the bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance.

Affiant further certifies that bidder is not financially interested in or financially affiliated with, any other bidder for the project.

By \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(is), and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

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

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

\_\_\_\_\_  
My Commission Expires

---

**18 ATTACHMENT K AFFIDAVIT – COMPLIANCE WITH PREVAILING WAGE LAW**

This form shall be submitted with the Contractor's Request for Payment.

Before me, the undersigned Notary Public, in and for the County of \_\_\_\_\_, State of \_\_\_\_\_, personally came and appeared (name and title) \_\_\_\_\_ of (company name) \_\_\_\_\_, (a Corporation) (a Partnership) (a Sole Proprietor), and after being duly sworn did depose and say that all provisions and requirements set out in Chapter 290, Sections 290.210 through and including 290.340, Missouri Revised Statutes, pertaining to the payment of wages to workmen employed on the above-referenced project have been fully satisfied and there has been no exception to the full and complete compliance with said provisions and requirements with Annual Wage Order No. \_\_\_\_, Section \_\_\_\_, for Building Construction in Jackson County, Missouri and/or Federal Wage Decision No. \_\_\_\_\_.

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

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

\_\_\_\_\_  
My Commission Expires

(seal)

---

## 19 ATTACHMENT L-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 this transaction imposed by 31 U.S.C. 1352, 2 CFR § 200.450, 2 CFR Part 200 Appendix II (J) and 49 CFR Part 20. 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 (Printed Name)

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

\_\_\_\_\_  
Date

---

## 20 ATTACHMENT L-2 CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_ (Name and Title of Grantee Official or Potential Subcontractor under a Major Third-Party Contract), hereby certify on behalf of \_\_\_\_\_ (Name of Grantee or Potential Subcontractor) 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 this transaction imposed by 31 U.S.C. 1352, 2 CFR § 200.450, 2 CFR Part 200 Appendix II (J) and 49 CFR Part 20. 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 (Printed Name)

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

\_\_\_\_\_  
Date

## 21 ATTACHMENT N-1 CERTIFICATION OF PRIMARY PARTICIPANT REGARDING FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

The Primary Participant (name of 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:

1. Do not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and if there is a federal tax liability that it is being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;
2. Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months; and
3. Have not more than 90 days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.

Contractor is described as any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association.

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 Contractor agrees to include these requirements in all subcontracts at all tiers, regardless of value, and to obtain the same certification and disclosure from all subcontractors (at all tiers).

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 48 CFR PARTS 1, 22 AND 52 ARE APPLICABLE THERETO.

Executed this \_\_\_\_\_ day of 20\_\_\_\_\_

\_\_\_\_\_  
 By (Printed Name)

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

\_\_\_\_\_  
 Date



## 22 ATTACHMENT N-2 CERTIFICATION OF LOWER-TIER PARTICIPANT REGARDING FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

The Lower-Tier Participant (name of applicant for an FTA grant or cooperative agreement, or potential Subcontractor for a major third-party contract), \_\_\_\_\_ certifies to the best of its knowledge and belief that:

1. The Contractor does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and if there is a federal tax liability that it is being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;
2. Was not convicted of the felony criminal violation under any Federal law within the preceding twenty-four (24) months; and
3. Have not more than ninety (90) days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.

Contractor is described as any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association.

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

THE LOWER-TIER PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL SUBCONTRACTOR 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 48 CFR PARTS 1, 22 AND 52 ARE APPLICABLE THERETO.

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

\_\_\_\_\_  
By (Printed Name)

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

\_\_\_\_\_  
Date

## 23 GUIDELINES FOR WORKFORCE ANALYSIS FORM AA1, PART I

### 23.01 DEFINITIONS

Please use the following definitions to fill in 24 WORK FORCE ANALYSIS REPORT beginning on Page 56.

#### 23.01.01 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.

#### 23.01.02 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, bookkeepers, 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.

## 24 WORK FORCE ANALYSIS REPORT FORM AA1, PART II

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	American Indian or Alaska Native	Two or more races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American 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															
TYPE OF BUSINESS	<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

**Book2 Contents Checklist**

- AIA 101 – Standard Form of Agreement
- AIA 201 – General Conditions
  - Supplementary Conditions
  - Appendix – Contractual Forms
  - Application and Certificate for Payment Form (AIA G702 & G703)
  - Change Order Form
  - Waiver & Release of Lien Forms
  - Request for DBE Modification, Replacement or Termination of DBE
  - Participation
  - Affidavit of Stored Materials
  - Subcontractor Monthly Utilization Report
  - Davis Bacon Federal Wage Rates (Wage Determination -Building)
  - Annual Wage Order for Jackson County Missouri

**PROJECT BID DOCUMENTS****Book 2****Pkg 4 – 112 Tram Rail Expansion Joints****KCATA PROJECT NUMBER: #F23-5001-39A****ISSUE DATE: 12/8/2022****BID CLOSE DATE: 1/10/2023 2:00 PM Local Time****OWNER:**

Kansas City Area Transportation Authority  
1200 E. 18<sup>th</sup> Street, Kansas City, Missouri 64108  
Telephone: 816-346-0200

**PROCUREMENT CONTACT:**

Denise Adams  
1350 E. 17<sup>th</sup> Street  
Kansas City, MO 64108  
Telephone: 816-346-0224  
Email: dadams@kcata.org

**PROJECT MANAGER**

Linda Clark, PE  
Kansas City Area Transportation Authority  
1200 E. 18<sup>th</sup> Street, Kansas City, Missouri 64108  
Email: lclark@kcata.org

## **LIST OF INCLUDED ITEMS**

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AIA Document A101 – Standard Form of Agreement Between Owner & Contractor

AIA Document A201 – General Conditions of the Contract for Construction Supplementary Conditions

### **APPENDIX**

Contractual Forms

Application and Certificate for Payment Form (AIA G702 & G703)

Change Order Form

Waiver & Release of Lien Forms

Request for DBE Modification, Replacement or Termination of DBE Participation

Affidavit of Stored Materials

Subcontractor Monthly Utilization Report

Davis Bacon Federal Wage Rates (Wage Determination -Building)

Annual Wage Order for Jackson County Missouri



## PROJECT MANUAL

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# AIA® Document A101® – 2017

## **Standard Form of Agreement Between Owner and Contractor** where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 31st day of March in the year 2022  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

Kansas City Area Transportation Authority  
Procurement Department  
1350 E. 17<sup>th</sup> Street  
Kansas City, MO 64108  
Telephone Number: 816-346-0360  
Fax Number: 816-346-0336

(hereinafter referred to as "KCATA" or "Owner")

and the Contractor:  
(Name, legal status, address and other information)

for the following Project:  
(Name, location and detailed description)

PROJECT #

The Architect:  
(Name, legal status, address and other information)

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

**SAMPLE ONLY**

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User Notes:

(1214919798)

The Owner and Contractor agree as follows.

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User Notes:

(1214919798)

## TABLE OF ARTICLES

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2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Bid Instructions, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9. In the event Contractor discovers any conflict between or among the Contract Documents, the Contractor shall immediately notify in writing, the Owner and the Architect and request clarification. To assist in such clarification, and for purposes of resolving any conflicts or inconsistencies among the Contract Documents, the documents will be given the following order of precedence:

- .1 Modifications or Change Orders issued after the execution of this Agreement;
- .2 This Agreement (AIA Document A101-2017 as modified) and its Exhibits, if any;
- .3 Supplementary Conditions, if any;
- .4 Final Drawings and Specifications;
- .5 General Conditions of the Contract for Construction (AIA Document A201-2007 as modified); and
- .6 Preliminary Drawings and Specifications.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work ("Commencement Date") shall be:  
(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.

(Paragraphs deleted)

- 1 The Work is to be performed in phases and a notice to proceed ("NTP") shall be issued by the Owner for the initial and successive phases. Once substantial completion has been reached and accepted by KCATA for each phase of the work, a separate, written Notice to Proceed shall be issued to the Contractor to start the next phase. The project phases and respective durations are as defined in the

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plans, specifications and bid forms. A final schedule reflecting each project phase and duration will be provided as set forth in 3.3.1 below.

§ 3.2 The Contract Time shall be measured from the Commencement Date, as established in the preceding Section 3.1.

**§ 3.3 Substantial Completion**

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

*(Check one of the following boxes and complete the necessary information.)*

☒ [ X ]

The Contractor will receive an initial NTP after execution of the Agreement to proceed preconstruction work and ordering of materials. This preconstruction work shall be completed within 30 days. After completion of the preconstruction work Owner will provide a second NTP to begin construction. The construction will be done in phases as noted in the attached schedule. Substantial Completion for the Work shall be achieved within 200 calendar days from the NTP with construction. Final completion and project closeout will be completed within ninety days after Substantial Completion.

A project schedule showing phases and durations is attached hereto as Exhibit A.

☐ [ ] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
See Phasing Schedule and Project Schedule.	As noted.

**SAMPLE ONLY**

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

**ARTICLE 4 CONTRACT SUM**

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. subject to additions and deductions as provided in the Contract Documents.

*(Paragraph deleted)*

§ 4.2.1 Alternates included in the Contract Sum:

Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.  
*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

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Item	Price	Conditions for Acceptance
As listed in Bid Response Forms.	As listed in Bid Response Forms	Owner Selection.

§ 4.3 Allowances, if any, included in the Contract Sum:  
(Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any:  
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

#### § 4.5 Liquidated damages.

The Contractor acknowledges and agrees that if the Contractor fails to timely complete the project within the time set forth for Substantial Completion, as may be amended pursuant to the Agreement, the Owner will sustain extensive damages and loss as a result of such delay. The Parties agree that the exact amount of such damages and loss is not readily ascertainable at the time of the execution of this Agreement. Therefore, the Owner and the Contractor agree that, if the Contractor fails to achieve Substantial Completion of the Work, the Owner shall be entitled to retain or recover from the Contractor, as liquidated damages, and not as penalty, the following amounts:

Liquidated damages will be assessed at a rate of \$per day per Phase for that work is not complete by Substantial Completion date identified for each Phase of the Work.

The liquidated damages will continue to accrue until the actual date of Substantial Completion. The amount of liquidated damages assessed by the Owner shall be deducted from any sums due the Contractor and, in the event that such liquidated damages exceeds amount owed, the Contractor shall promptly pay Owner, upon demand, the amount of such excess.

The amount of liquidated damages assessed by the Owner shall be deducted from any sums due the Contractor and, in the event that such liquidated damages exceed amounts owed, the Contractor shall promptly pay Owner, upon demand, the amount of such excess.

§ 4.6 Other:  
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.) (Identify allowance and state exclusions, if any, from the allowance price.)

Item	Units and Limitations	Price Per Unit
None.		

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Init.

§ 5.1.3 Provided that an Application for Payment is received (COMPLETE with all required documentation) by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 30th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Contractor shall submit three (3) copies of each payment application and the payment application shall identify each subcontractor, supplier, and materialman on the Project, the amount paid to each subcontractor, supplier, and materialman for, and through and including the pay application period, and the cumulative pay out to date for each subcontractor, supplier and materialman on the Project. At Owner's election the pay applications may be submitted electronically in lieu of paper copies. Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule, unless objected to by the Architect, of values shall be used as a basis for reviewing the Contractor's Applications for Payment. Applications for payment also shall include any additional supporting data or documentation as required by the Owner/Architect and partial waivers and releases as referenced in the General Conditions. AIA A201, as amended.

~~§ 5.1.4.1 TAXPAYER IDENTIFICATION NUMBER (TIN) The Contractor is required to provide its TIN, which is the number required by the IRS to be used by Owner in reporting tax and other returns. The TIN provided by the Contractor is 43-.~~

~~By execution of this Agreement, the Contractor certifies the accuracy of the above TIN for IRS reporting purposes.~~

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2007, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five (5) percent. Pending final determination of the cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201, 2007, General Conditions of the Contract for Construction.;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation into the completed construction, (or, if approved in advance by the Owner, suitably stored offsite at a location agreed upon in writing) less retainage of five percent (5%); and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 Subtract the aggregate of previous payment made by the Owner;
- .2 Subtract amounts, if any, for Work that remains uncorrected and for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor, supplier, or materialman, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201 2007; and

Init.



.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6.3 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201 2007.

§ 5.1.7 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

five percent (5 %)

*(Paragraphs deleted)*

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2007.

§ 5.1.8.1 Owner may permit a reduction in retainage in accordance with Section 9.3 of the General Conditions.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

Published prime rate as exists on the date payment is due, as published by Bank of America, Kansas City Branch, plus one percent (1%) per annum.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document A201–2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

Init.

## § 6.2 Binding Dispute Resolution

The method of binding dispute resolution shall be as follows:  
(Check the appropriate box.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007

☒ Litigation in a court of competent jurisdiction

☐ Other (Specify)

(Paragraphs deleted)

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

(Paragraphs deleted)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

SAMPLE ONLY

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten (10) days' written notice to the other party.

§ 8.5 The parties shall maintain and provide insurance and/or bonds as specified in Article 11 of AIA Document A201–2007, General Conditions of the Contract for Construction.

(Paragraphs deleted)

§ 8.6 Other provisions:

(Paragraphs deleted)

Init.

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1
  - .1.1 Exhibit A – Project Schedule
- .2 AIA Document A201™–2007, General Conditions of the Contract for Construction as modified Project Manual, Bid Documents Pits and Contract Documents

Book 2 of 2, Pits and Tunnels for Contract Documents  
KCATA Fleet Maintenance Garage

- .3 KCATA "Contract Documents" from bid packages:

(Paragraph deleted)

- .4 Drawings

Number	Title	Dat20
G000	Cover	
G001		
G008		
G010		

A001  
A100.0  
A100.1  
A101.1  
A101.3  
A300  
A500

S001  
S010.1  
S100  
S101  
S200

M101  
MD101  
MD102  
M201  
M202

E101  
E201  
E202

- .5 Specifications

Section	Title	Date	Pages
Project Manual, (Book 3 of 3) Service Tunnels & Pits	Technical Specifications	November 17, 2021	158 pages

- .6 Addenda, if any:

Number	Date	Pages
Addendum No. 1	November 18, 2021	
Addendum No. 2	November 24, 2021	

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User Notes:

(1214919798)

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .7 Other Exhibits:  
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
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Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- .8 Other documents, if any, listed below:  
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2007 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

SAMPLE ONLY

This Agreement entered into as of the day and year first written above.

(Rows deleted)

KANSAS CITY AREA TRANSPORTATION  
AUTHORITY

MUSSELMAN AND HALL

OWNER (Signature)

Melissa Bynum, Chairman of the Board  
(Printed name and title)



Louie Wright, Secretary to the Board  
(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

### THE OWNER:

(Name, legal status and address)

Kansas City Area Transit Authority  
Procurement Department

(hereinafter referred to as "KCATA" or "Owner")

### THE ARCHITECT:

(Name, legal status and address)

### TABLE OF ARTICLES

1	GENERAL PROVISIONS
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10	PROTECTION OF PERSONS AND PROPERTY
11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES



Init.

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The Contract Documents do include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes, but is not limited to, delivery, unloading, uncrating, assembling, setting-in-place, leveling, adjust, completely installing, **commissioning**, and cleaning up.

*§ 1.1.3.1 The Contractor warrants it has thoroughly investigated the Project conditions and, unless otherwise stated in the Contract Documents, has adequate information to fully construct the Project for the agreed upon terms.*

*§ 1.1.3.2 The Contractor shall thoroughly investigate and conform to all local trade jurisdictional rules and/or rulings and all workforce requirements (including WBE/MBE) and is responsible for the settlement of any disputes or fines arising from fabrication, installation, or completion of the Work under this Contract.*

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### § 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### § 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

### § 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### § 1.1.9 Alternate Security

Alternate Security means an irrevocable bank letter of credit, certificate of deposit, cash bond, or other type of asset or security of value equal to or exceeding the amount of **retained funds, retention, or retainage**. Alternate Security shall not include a performance or payment bond.

## § 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Reference to standard specifications of any technical society, organization, or association, or to codes of local, state or federal authorities, shall mean the latest standard, code, specification, or tentative specification adopted and published at the date of bid issuance, unless specifically stated otherwise.

§ 1.2.5 Any materials, products, equipment or systems that are not broadly recognized as normal, proven, industry-standard materials, practices, systems or components shall not be used on the Project unless specifically reviewed and approved by Owner in writing.

§ 1.2.6 The Contractor shall notify the Architect in writing of any inconsistency found between the Specifications and Drawings. The Architect will then advise the Contractor whether the Specifications will control.

§ 1.2.7 The terms "this Contractor," "furnished under other Sections," "included as part of other Sections," "related work in other Sections," or similar description of segregation shall not be interpreted to limit the responsibility of any particular party involved in the work. The limitations of any subcontractor's work shall rest solely upon the agreement between the Contractor and the subcontractor, regardless of where the work is called for in the Contract Documents.

§ 1.2.8 Omissions in the Contract Documents of such words and phrases as "the Contractor shall," "shall consist of," "as indicated on the Drawings," "in accordance with," "shall," "and," "the," etc., are intentional. Such words and phrases shall be supplied by inference.

§ 1.2.9 The term "product" shall be understood to mean materials, systems, and equipment.

§ 1.2.10 The term "provide" shall be understood to mean "provide complete in place;" that is, "furnish and install."

§ 1.2.11 Whenever the words "necessary," "proper," or words of like effect are used in the Contract Documents with respect to the extent, conduct, or character of work specified, they shall mean that the said work shall be carried to the extent, must be conducted in a manner, or be of a character which is "necessary" or "proper" under the circumstances in the opinion of the Architect, and the Architect's judgment in such matters shall be considered final.

§ 1.2.12 Whenever the words "as required," "as directed," "as permitted," and words of like effect are used in the Contract Documents, it is understood that the requirements, direction, or permission of the Architect are intended, unless otherwise stated; similarly, the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," "acceptable to," or "satisfactory to" the Architect, unless otherwise stated.

§ 1.2.13 Should discrepancies appear among Contract Documents Contractor shall request interpretation in writing before proceeding with the Work. If Contractor fails to make such request, no excuse will thereafter be entertained for failure to carry out Work in satisfactory manner. Should conflict occur in or between drawings and specifications, Contractor is deemed to have included the more expensive way of doing work in Contractor's Bid unless Contractor shall have asked for and obtained written decision before submission of Contractor's Bid Proposal as to which method or materials will be required.

§ 1.2.14 Where the words "KCATA" or "Owners" or "the Authority" is used in these documents reference is made to the Kansas City Area Transportation Authority.

§ 1.2.15 Where the words "Project Manual" or "Bid document" or "Contract Document" are used in the Project Manual, synonymous reference is made to the same instrument including any associated drawings or addenda issued prior to receipt of bids.

§ 1.2.16 Where the words "Architect" or "Engineer" are used in the documents the words are interchangeable as appropriate meaning a State of Missouri registered professional licensed to design unrestricted public and private facilities. In addition, "Architect" or "Engineer" may also mean KCATA Project Manager or designee to the extent applicable for the specific project that is the subject of this Agreement.

### § 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### § 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### § 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### § 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.



§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

## § 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

## § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 OWNER

### § 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

*(Paragraph deleted)*

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements that affect its ability to pay Contractor without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### **§ 2.3 Information and Services Required of the Owner**

**§ 2.3.1** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.3.2** The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 2.3.3** If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

**§ 2.3.4** If available and requested by Contractor, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 2.3.5** The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

**§ 2.3.6** Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

### **§ 2.4 Owner's Right to Stop the Work**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The rights stated in this provision are not a limitation of any rights of the Owner expressed in the Contract Documents, or as provided in law or equity.

### **§ 2.5 Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

### **§ 2.6 Owner's Right to Reject Work**

The Owner has the right to reject any work that is defective or does not comply with the Contract Documents. If work is rejected it will be remedied by the Contractor at no cost to Owner.

### **§ 2.7 Architect's Compensation for Services to Remedy Defective Work**

When additional services of the Architect are required because of defective Work, negligent, failure, deficiencies, or default by the Contractor, the Architect's compensation for such services shall be based on Architect's invoice to the Owner. The invoice, when approved by the Owner, along with other costs, damages, and liabilities incurred by the Owner or the Architect, shall be paid by Contractor and shall reduce the Contract Sum, by Change Order, or other appropriate means to compensate the Owner for its damages, including Architect's Additional Services.

## ARTICLE 3 CONTRACTOR

### § 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

### § 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require. If the Contractor performs any work when it involves a recognized nonconformity in the Contract Documents without such prior notice to Architect or Owner, the Contractor shall thereby assume responsibility for performance and bear the attributable cost for the correction.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 The Contractor shall do no Work without Drawings, Specifications or written instructions or interpretations.

§ 3.2.6 The Contractor's notices or reports to the Architect of errors, inconsistencies, or omissions shall be submitted in writing.

§ 3.2.7 Contractor questions regarding errors, format, inconsistencies, omissions, or interpretations of the Contract Documents shall be submitted in writing to the Architect and in a consistent format, referred to as a "Request for Information," numbered sequentially according to submission and dated.

§ 3.2.8 The Architect shall respond to written notices, reports, or Requests for Information in a timely fashion. The

Contractor hereby acknowledges that (1) a timely response may require consultation and coordination with consultants, and preparation of supplementary information or drawings and (2) no extension of Contract Time will be authorized because of failure to notify Architect sufficiently in advance of the Work to permit his timely review and response.

### **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures but shall not proceed with that portion of the Work without further written instructions from the Architect or Owner.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

**§ 3.3.4** The Contractor, all Subcontractors, and delivery personnel associated with performing the Work of the Contract shall conduct themselves in accordance with all applicable Owner policies while on the job site or any Owner property. Applicable policies may include, but are not limited to, tobacco, drugs, language, weapons, and sexual harassment. Failure of a person to comply will be a cause for his or her immediate dismissal from the project.

### **§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

*(Paragraphs deleted)*

### **§ 3.5 Warranty**

**§ 3.5.1** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

*(Paragraph deleted)*

**§ 3.5.2** Contractor shall describe its policy or warranty in writing regarding both workmanship and material as it applies to the Work, along with the method of adjustment. Contractor shall assume responsibility and warrant for workmanship and materials whether the same are made by the Contractor or Subcontractor or purchased from an outside source.

**§ 3.5.3** Bidder warrants workmanship and materials for a period of two (2) years from the date a "Notice of Substantial Completion of Work" is issued.

**§ 3.5.4** At the Owner's option, the Contractor shall provide a two (2) year maintenance bond which becomes effective



from the date of Substantial Completion.

**§ 3.5.5** If Contractor fails to replace, correct or repair Work which has failed because of faulty material or workmanship during the two (2) year warranty period; KCATA may replace, correct and repair subject work at KCATA's expense and KCATA will seek recovery from Contractor's surety under maintenance Bond. In the event, the KCATA seeks payment against Contractor's maintenance Bond for Contractor's failure to replace, correct or repair subject work, Contractor agrees and will fully cooperate with KCATA to recover all its expenses related to the replacement, correction or repair subject work to the KCATA's satisfaction. If KCATA is the prevailing party in any subsequent legal action to recover costs, Contractor agrees to pay, the cost of the work and reasonable administrative fees plus legal expenses.

**§ 3.5.5** To the extent necessary, the Contractor shall assign to the Owner (at the time of final completion of the Work) any and all manufacturer's warranties relating to the Work and further agrees to preserve all such manufacturer's warranties.

### **§ 3.6 Taxes**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15. Any claim not timely submitted by the Contractor is waived.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

### § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 Unless otherwise part of the Contract Documents, the Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be updated monthly to reflect the actual conditions of progress of the Project and, in the event of delays, shall provide the Owner an affirmative plan designed to correct the delay. In no event shall any progress update constitute an adjustment in the Contract Time period.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 In the event that the Owner determines that the performance of the Work has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction. The Contractor shall not be entitled to an

adjustment in the Contract Sum in connection with the performance of such corrective measures for delays caused by the errors or omissions of the Contractor, subcontractors, or materialmen.

### **§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### **§ 3.12 Shop Drawings, Product Data and Samples**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

**§ 3.12.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

**§ 3.12.3** Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

**§ 3.12.4** Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

### **§ 3.13 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. Further, the Contractor shall use best efforts to minimize any interference with the occupancy or use of any areas of buildings adjacent to or near to the site of the Work.

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor. Owner may offset costs incurred herein through payment applications when Contractor fails to timely reimburse Owner.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.



### § 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

#### § 3.17.1 OWNERSHIP, IDENTIFICATION, AND CONFIDENTIALITY OF WORK

- .1 All reports, programs, documentation, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the services to be performed by Contractor shall be and are the property of KCATA and shall be identified in an appropriate manner by a title containing KCATA's name and address.
- .2 KCATA shall be entitled access to and copies of these materials during the progress of the work.
- .3 Any such material remaining in the possession or under the control of the Contractor or in the possession or under the control of a subcontractor upon completion or termination of the work, and for which KCATA has reimbursed the contractor, shall be immediately delivered to KCATA. If any materials are lost, damaged, or destroyed before final delivery to KCATA, the Contractor shall replace them at its own expense, and the Contractor assumes all risks of loss, damage or destruction of or to such materials.
- .4 The Contractor may retain a copy of all materials produced under this Agreement for its own internal use.
- .5 Any KCATA materials to which the Contractor has access or materials prepared by the Contractor shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees, and agents of the Contractor as necessary to accomplish the Scope of Services set forth in this Agreement.
- .6 Access to or copies of any reports, information, data, etc., available to or prepared or assembled by the Contractor under this Agreement shall not be made available to any third party by the Contractor without the prior written consent of KCATA.
- .7 Each tangible product resulting from work performed under this Agreement shall be labeled with information stating that the project has been financed with federal assistance provided by the U.S. Department of Transportation, Federal Transit Administration.

#### § 3.17.2 PATENTS AND RIGHTS IN DATA AND COPYRIGHTS

##### .1 Rights in Data

- .1 **The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media such as drawings or photographs; test in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts, and information retained in computer memory. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.**

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**.2 The following restrictions apply to all subject data first produced in the performance of this Agreement:**

- .1 Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part or in any manner or form, nor may Contractor authorize others to do so, without the written consent of KCATA may have either released or approved the release of such data to the public.**
- .2 In accordance with 2 C.F.R. part 200, Appendix II (F) and 37 C.F.R. part 401, Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "federal government purposes."**
  - .1 Any subject data developed under this Agreement, where or not Contractor or KCATA registered the copyright has been obtained; and
  - .2 Any rights or copyright purchased by KCATA or the Contractor using federal assistance in whole or in part provided by FTA.

As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the federal government.

- .3 When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, Contractor performing experimental, developmental, or research work, agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under this Contract shall become subject data as defined previously and shall be delivered as the Federal Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs for the KCATA or Contractor's use whose costs are financed in whole or part with Federal assistance provided by FTA for transportation capital projects.**
- .4 Unless prohibited by state law, Contractor agrees to indemnify, save, and hold harmless KCATA and the Federal Government, its commissioners, officers, agents, and employees acting within the scope of their official duties (the "Indemnified Person") against any liability, including costs and expenses, resulting from any claim against Indemnified Person alleging misappropriation or infringement of intellectual property or proprietary rights, copyrights, or rights of privacy of a third party, arising out of the publication, translation, reproduction, delivery, use or disposition of any data or Work furnished under this Agreement. Contractor shall not be required to indemnify and Indemnified Person for any such liability arising out of the wrongful act of such Indemnified Person.**
- .5 Nothing contained in this Section of rights in subject data shall imply a license to the KCATA or to the Federal Government under any Contractor patent or be construed as affecting the scope of any license or other right granted to the Federal Government under any Contractor patent.**
- .6 Data that is developed by the KCATA or Contractor under this Agreement and financed entirely without using federal assistance provided by the Federal Government that has been incorporated into work required by this Agreement is exempt from the requirements**

of subsections (b), (c), and (d) of this Part (2) of this Section, provided that the KCATA or Contractor identifies that data in writing at the time of delivery of the contract work.

.7 Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work funded in whole or in part with federal assistance.

.2 **Patent Rights.** If any invention, improvement, or discovery of the Contractor is conceived or first actually reduced to practice in the course of work under this Agreement, and that intervention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify KCATA immediately and provide a detailed report, who in turn shall ultimately notify the FTA. Unless the Federal Government later makes a contrary determination in writing, and irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, non-profit organizations, institution of higher education, individual), the KCATA and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made but Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 and 35 U.S.C. 2000 *et seq.*

### § 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including consequential damages, caused in whole or in part by any act or omission of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 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 Agreement, Contractor shall promptly notify KCATA of such suit.

§ 3.18.3 If any action at law or suit in equity is instituted by any third party against KCATA arising out of or resulting from the acts of Contractor in performing work under this Agreement, and if Contractor has failed to provide insurance coverage to KCATA against such action as required herein, 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. Contractor will be bound to indemnify KCATA for the proposed settlement amount unless within 15 days of the notice, Contractor objects in writing. If the parties are unable to resolve Contractor's objections, KCATA will not be precluded from settling any claim, but Contractor will not be precluded from challenging its liability and the amount of KCATA's payment in any claim by KCATA and Contractor for indemnity. KCATA shall permit Contractor to participate in the defense of any such action or suit through counsel chosen by the Contractor, provided that the 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.

§ 3.18.4 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT/ENGINEER

### § 4.1 General

§ 4.1.1 The Owner may retain an Architect/Engineer lawfully licensed to practice architecture or engineering or an entity lawfully practicing architecture or engineering in the jurisdiction where the Project is located. The Architect/Engineer is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect/Engineer is terminated, the Owner shall employ a successor architect/engineer as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect/engineer.

### § 4.2 Administration of the Contract

§ 4.2.1 The Architect/Engineer will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect/Engineer issues the final Certificate for Payment. The Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect/Engineer will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect/Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect/Engineer will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect/Engineer will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect/Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect/Engineer will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect/engineer about matters arising out of or relating to the Contract. Communications by and with the Architect/engineer's consultants shall be through the Architect/engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner. Architect/Engineer shall keep Owner informed of all relevant project information and communications that may potentially impact the project scope, cost and schedule in any way.

§ 4.2.5 Based on the Architect/Engineer's evaluations of the Contractor's Applications for Payment, the Architect/Engineer will review and recommend the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect/Engineer has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable, the Architect/Engineer will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the



Architect/Engineer to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect/Engineer will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken in accordance with the submittal schedule approved by the Architect/Engineer or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect/Engineer's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect/Engineer shall notify and obtain approval from the Owner of any shop drawing edits that may potentially impact the project scope, cost and schedule within 3 business days of the Architect/Engineer becoming aware of the need of a potential edit to the shop drawings.

**§ 4.2.8** The Architect/Engineer will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect/Engineer will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4. The Architect/engineer shall notify and obtain approval from the Owner of any proposed minor changes that may potentially impact the project scope, cost and schedule within three (3) business days of the Architect/engineer becoming aware of the need of a potential change in the work.

**§ 4.2.9** The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

**§ 4.2.11** The Architect/Engineer with direct input from Owner will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Architect/Engineer will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings.

**§ 4.2.13** The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**§ 4.2.14** The Architect/Engineer will review and respond to requests for information about the Contract Documents. The Architect/Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect/Engineer will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### § 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the bidding requirements, the Contractor, shall furnish in writing to the Owner a list of all Subcontractors and major suppliers name, contact information and scope of work to the Contracting Officer (KCATA Procurement Staff) the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) within two (2) business days of receipt of Notice of Intent to Award. The Contracting Officer may reply within fourteen (14) business days to the Contractor in writing stating (1) whether the Owner or the Contracting Officer has reasonable objection to any such proposed person or entity or (2) that the Contracting Officer requires additional time for review.

§ 5.2.2 None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of KCATA. The only subcontractors approved for this Contract, if any, are listed on an Appendix to this Contract. Any substitutions or additions of subcontractors must have the prior written approval of KCATA in its sole discretion. Contractor shall be solely responsible for reimbursing any subcontractors or service firms, and Owner shall have no obligation to them, provided KCATA has accepted and reimbursed Contractor for the subcontractors' or service firms' work. If Contractor fails to reimburse subcontractors or service firms after receiving reimbursement from KCATA for the subcontractors' or service firms' work, KCATA reserves the right to directly reimburse the subcontractor or service firm and withhold such payments directly from any future payments to Contractor, any retainage held by KCATA on this Contract, or draw down on any letter of credit provided in lieu of retainage under this Contract. KCATA requires lien waivers from all subcontractors before reimbursement is made to the Contractor. A breakdown of all payments to subcontractors shall be included with Contractor's payment requests submitted to KCATA.

§ 5.2.2.1 Prompt Payment. The Contractor shall establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor is required to pay its DBE and non-DBE subcontractors performing work related to this Contract for satisfactory performance of that work in accordance with the timing set forth in any applicable laws or no later than thirty (30) days, whichever is less, after the Contractor's receipt of payment for that work from the KCATA. Any delay of payment from the above-referenced time frame may occur only for good cause following the written approval of KCATA. A breakdown of all payments to DBE and non-DBE subcontractors shall be included with the Contractor's payment requested submitted to KCATA on the form titled, "Subcontractor Monthly Utilization Report."

§ 5.2.2.2 Prompt Payment Retainage. If retainage is withheld from subcontractors, Contractor is required to return any retainage payment to those DBE and non-DBE subcontractors with the timing set forth in any applicable laws or no later than thirty (30) days, whichever is less, from receipt of the retainage payment related to the subcontractor's work. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCATA.

§ 5.2.2.3 A breakdown of all payments to DBE and non-DBE subcontractors and major suppliers (project materials costing more than \$10,000 or as otherwise approved by Owner) shall be included with Contractor's payment requests submitted to KCATA.

§ 5.2.2.4 Subcontract Provisions. Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete Contract. 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.

Init.

.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 Agreement:

- Bonding
- Breach of Contract; Remedies
- Civil Rights
  - A. Nondiscrimination
  - B. Equal Employment Opportunity
  - C. Americans with Disabilities Act
  - D. ADA Access Requirements
- Debarment and Suspension
- Disadvantaged Business Enterprise (DBE)
- Disclaimer of Federal Government Obligations or Liability
- Dispute Resolution
- Employee Protections
  - A. Construction Employee Protections
  - B. Employee Protections – General
- Employee Eligibility Verification
- Environmental
  - A. Clean Air
  - B. Recovered Materials/Recycled Products
  - C. Clean Water
  - D. Energy Conservation
- Federal Changes
- Federal Tax Liability and Convictions
- Fraud and False or Fraudulent Statements or Related Acts
- Governing Law; Choice of Judicial Forum
- Incorporation of Federal Transit Administration Terms
- Lobbying Restrictions
- National Intelligent Transportation Systems Architecture & Standards
- Ownership, Identification, and Confidentiality of Work
- Patents and Rights in Data and Copyrights
- Privacy Act Requirements
- Prohibited Interests
- Prohibited Weapons and Materials
- Prohibition on Restricted Telecommunications and Surveillance Equipment
- Record Retention & Access
- Seat Belt Use Policy
- Seismic Safety
- Subcontractors
- Termination
- Texting While Driving and Distracted Driving
- U.S. Product and Service Preference
  - A. Buy America
  - B. Cargo preference
  - C. Fly America

.4 The Contractor will take such action with respect to any subcontractor or procurements as KCATA or the U.S. Department of Transportation may direct as means of enforcing such provisions.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be

issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

**§ 5.2.5** The Contractor at Owner's request shall timely provide at their cost any and all subcontracts associated with the project. The Contractor, as a material condition of this contract at Owner's request timely make any subcontract modifications the Owner deems appropriate. Time is of the essence for compliance with the provision; in no event shall any requested change take more than 30 days to complete by the Contractor and subcontractor(s). As determined by the Owner, failure of the Contractor to complete any requested subcontract change(s) shall result in the contract price being adjusted and decreased by the Owner in an amount equal to the total amount of federal dollars received by the Owner for the project, which could exceed one hundred percent of the total contract value or price, which also includes all change orders.

### **§ 5.3 Subcontractual Relations**

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### **§ 5.4 Contingent Assignment of Subcontracts**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

**§ 5.4.2** Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

**§ 5.4.3** Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

### **§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 6.1.1** The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of



subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

**§ 6.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

**§ 6.1.3** The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

*(Paragraph deleted)*

**§ 6.1.4** The Contractor shall assume all responsibility and costs in complying with federal, state, and local regulations for equal employment opportunity, anti-discrimination, safety, and other regulations. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, ethnic group, national origin, age, or sexual orientation. The Contractor shall take affirmative action to ensure that applicants are employed, and that applicants are treated during employment, without regard to that applicant's race, religion, color, sex, ethnic group, national origin, age, or sexual orientation. Such action shall include, but not limited to, employment, upgrading, demotion, transfer, recruitment, advertisement, layoff termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the requirements of these non-discrimination provisions.

**§ 6.1.5** The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, ethnic group, national origin, age, or sexual orientation.

**§ 6.1.6** The Contractor shall include all of Sections 6.1.4 through 6.1.5 in every subcontract or purchase order and shall require each Subcontractor and material and equipment supplier to include Sections 6.1.4 through 6.1.5 in each of their subcontracts and purchase orders, so that such provisions will be binding upon each Subcontractor, Sub-Subcontractor, and material and equipment supplier.

## **§ 6.2 Mutual Responsibility**

**§ 6.2.1** The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

**§ 6.2.3** The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

**§ 6.2.4** The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### § 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires approval by the Owner and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone. The parties agree any dispute over a Construction Change Directive will not delay the Project. Contractor shall perform the work as directed in the Construction Change Directive. The parties will work in good faith reach a resolution of any disputes arising from the Construction Change Directive. If the disputes cannot be resolved both parties reserve the right pursue a claim under Section 15.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 The bonds shall be automatically increased in amount and extended in time to cover full and faithful performance of the Contract in the event of Change Orders, regardless of the amount of time or money involved. It is the Contractor's responsibility to notify his Surety of any changes affecting the general scope of work or change in the Contract price or time.

§ 7.1.5 At any time during the continuance of the contract that the Surety on any bond becomes unacceptable to Owner for financial reasons, the Owner has the right to require additional and sufficient sureties which Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notices to do so.

### § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 For any work for which unit prices have not been established, the Contractor shall prepare and submit for approval a proposal covering the changes required in the Work. The proposal shall cover all cost as defined, broken down as to labor, material, tool rental, and subcontracted work. To these items, if change order is for additional work, shall be added a percentage of the costs of labor, material, and equipment as the Contractor's fee for overhead and profit. Also included shall be a percent of value of subcontracted work. If the change order is for a decreased amount of work, credit to the KCATA shall be one hundred percent (100%) of the accrued savings.

§ 7.2.3 If the change order is for a decrease in the amount of work, credit to the KCATA shall include overhead and direct costs, unless the Contractor's fee for overhead and profit are fixed by competitive bid on the Bid Response Form.

### § 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in

the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

*(Paragraphs deleted)*

**§ 7.3.4** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted.

**§ 7.3.5** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.6** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be incorporated into a subsequent Change Order.

**§ 7.3.7** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.8** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be

reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### **§ 7.4 Minor Changes in the Work**

The Architect has authority order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

**§ 7.4.2** Architect-initiated clarifications will be issued in, Architect's Supplemental Instructions (ASI). The Contractor, within 10 days of date of issuance of ASI, shall respond in either of the following ways:

- .1 Accept the ASI as issued by signing, dating, and returning two copies.
- .2 State in writing that the ASI is not acceptable because of a need to change the Contract Sum and/or Contract Time and issue a Contractor Proposal outlining changes.

**§ 7.4.3** If neither response is received within 10 days, the conditions of the ASI shall become binding on all parties and accepted into the Contract Documents, and the Contractor shall waive his right to file a claim for an increase in Contract Sum and/or Contract Time.

### **ARTICLE 8 TIME**

#### **§ 8.1 Definitions**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement. If the project start date is delayed due to permitting delays, the contract term shall be extended accordingly. The Contractor shall not be entitled to any additional costs for the delay. The Contractor shall pay for all building construction permits, including minor (e.g., grading permit, traffic control permit, street restoration permit) permit fees if required by the municipality.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### **§ 8.2 Progress and Completion**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.



### **§ 8.3 Delays and Extensions of Time**

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. Any claim for additional time must be submitted within seven (7) days of the event giving rise to the claim. Any claim not timely submitted is waived.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15. Contractor agrees that any delay period of three (3) months or less is not compensable and therefore waives any such claims. Claims made for delays lasting more than three (3) months at a time will be negotiated.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

**§ 9.1.1** The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

**§ 9.1.2** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### **§ 9.2 Schedule of Values**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Owner and Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Owner and Architect and supported by such data to substantiate its accuracy as the Owner or Architect may require, and unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The Form of Application for Payment shall be AIA Document G-702, 'Application and Certification for Payment,' supported by AIA Document G-702A, 'Continuation Sheet.' The Contractor shall submit "Certified Payroll Report" and partial lien waivers with each application for payment in a form acceptable to Owner.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance

by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

**§ 9.3.4** The full Contract retainage five (5%) may be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to the Architect and the KCATA's Project Manager, or if the Surety withholds its consent, or for other good and sufficient reasons.

**§ 9.3.5** The Contractor (and the Contractor's surety) shall be liable for and shall pay to the KCATA the liquidated damage sums stipulated and fixed herein, according to the agreed liquidated damage sums for each calendar day the Work remains uncompleted after expiration of the Contract time.

**§ 9.3.6** Applications for payment shall be submitted directly to KCATA's Procurement representative identified in this agreement. All invoices shall be numbered, dated, and contain full descriptive information of products, equipment, materials, work, or services furnished. All invoices and correspondence shall reference KCATA's Purchase Order number or Contract number. Separate invoices shall be submitted for each purchase order or work (task) order.

**§ 9.3.7** Contractors utilizing subcontractors shall provide a detailed breakout by prime, majority subcontractor(s) and/or DBE Subcontractor(s) on each invoice submitted for payment. Invoice shall contain a summary section which shows current payment and cumulative. Contractor shall submit this information on the "Subcontractor Monthly Utilization Report" form. Contractor is required to pay its DBE and non-DBE subcontractors performing work related to this Contract for satisfactory performance of that work in accordance with the timing set forth in any applicable laws or no later than thirty days, whichever is less, after the Contractor's receipt of payment for that work from the KCATA. If retainage is withheld from subcontractors, Contractor is required to return any retainage payment to this DBE and non-DBE subcontractors with the timing set forth in any applicable laws or no later than 30 days, whichever is less from receipt of the retainage payment related to the subcontractor's work. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCATA. KCATA may perform random audits and contact DBE subcontractors to confirm the reported participation. Failure to meet the contracted goal without documented evidence of a good faith effort may result in the termination of this Agreement.

## **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect.

However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents;
- .8 unsatisfactory prosecution of the Work by the Contractor.
- .9 failure to submit Certified Payroll Receipts, partial lien waivers and other documents as may be required by the Architect on behalf of the KCATA's Project Manager.

**§ 9.5.2** In addition, the Owner may withhold or cause to be withheld from the Contractor any amounts reasonably necessary a) to protect Owner from damages caused by Contractor b) to pay the laborers or mechanics, including apprentices and trainees, employed by the Contractor or Subcontractor on the Work the full amount of wages required by the Contract, and c) to satisfy any liability of any Contractor for delay damages and/or liquidated damages.

**§ 9.5.3** If the Contractor or any Subcontractor fails to pay any laborer or mechanic, including apprentices and trainees, employed or working on the site of the Work, all or part of the wages required by the Contract, the Owner may, after written notice to the prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

#### **§ 9.5.4 Right to Offset; Payments Under Protest.**

1. The Owner, without waiver or limitation of any rights, may deduct from any amounts due Contractor in connection with this contract, or any other Agreement between Contractor and Owner, any amounts owed by Contractor to Owner, including amounts owed by Contractor, as provided above, and/or to ensure Contractor's obligation to indemnify the Owner against third party claims arising out of Contractor's performance of Work under this Agreement.
- .2 If any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other party, under the provisions of this Agreement, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the party of said party to institute permitted actions for the recovery of such protested sum, and if it shall be finally determined that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Agreement, together with interest thereon at 1% per

annum if paid to the other party. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the cost thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and there shall survive the right on the part of said party to institute permitted actions for the recovery of the costs of such work, and if it shall be adjudged that there was no legal obligation on the part of said party to perform the same or any part thereof, said party shall be entitled to recover the cost of such work or the costs of so much thereof as said party was not legally required to perform under the provisions of this Agreement, together with interest thereon at 1% per annum.

**§ 9.5.5** When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.6** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

## **§ 9.6 Progress Payments**

**§ 9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

**§ 9.6.2** The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

**§ 9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

**§ 9.6.4** The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

*(Paragraph deleted)*

**§ 9.6.5** Immediately, upon receipt of each progress payment and upon receipt of the final payment as provided in Article 9 of these General Conditions, the Contractor shall provide Owner with a written statement, under oath, certifying that the Contractor has properly and fully paid Subcontractors and material and equipment suppliers the sums due and owing the Subcontractors as evidenced by the Application for Payment, together with a lien waiver from Contractor and all such Subcontractors and Suppliers. If the Contractor fails to furnish such evidence, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law. Contractor shall not be entitled to receive any further payments pursuant to the Contract unless and until Contractor is in compliance with the terms of this Section.

**§ 9.6.6** The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

**§ 9.6.6** A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

**§ 9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be



held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

**§ 9.6.8** Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

## **§ 9.7 Failure of Payment**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within thirty (30) days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution (subject to Contractor's compliance with the provisions of the Contract), then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

## **§ 9.8 Substantial Completion**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when each and every component of the Work as itemized in the Schedule of Values, is at least 95% complete and operational or may be occupied in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, including the issuance of a full certificate of occupancy. KCATA relies on Contractor's experience and knowledge to safely install/build the equipment or structure consistent with manufacturer's instruction unless otherwise unsafe. The Contractor is responsible for testing the equipment and confirm it is operationally safe and consistent with intended use prior to acceptance and substantial completion.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Contractor shall submit a request for Certificate of Substantial Completion to the Owner for written acceptance of responsibilities assigned to the Contractor in such Certificate. Upon Substantial Completion, all retainage shall be deemed a disputed payment until final acceptance, in accordance with RSMo 436.300, *et seq.* Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## **§ 9.9 Partial Occupancy or Use**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **§ 9.10 Final Completion and Final Payment**

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be

given to the other party within a reasonable time not exceeding 2 business days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### **§ 10.3 Hazardous Materials and Substances**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition in writing. Failure to notify the Owner and/or proceeding with Work in the affected area after recognizing hazardous materials shall constitute a negligent act on the part of the party or parties having actual knowledge of the existence of hazardous materials and shall indemnify the KCATA from litigation and acts, penalties, fines and restrictions as may be imposed by the federal government or the State of Missouri.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

*(Paragraph deleted)*

### **§ 10.4 Emergencies**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor and KCATA from claims set forth below which may arise out of or result from the Contractor's operations and completed



operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

**§ 11.1.2** The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified below or required by law, whichever coverage is greater, and shall include blanket contractual liability insurance under the Liability and Indemnification sections in this Agreement. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. The KCATA, its commissioners, officers and employees shall be named as additional insureds on all policies, except Professional Liability and Workers Compensations policies.

**.1 Workers Compensation:**

- a. State: Statutory Kansas or Missouri
- b. Applicable Federal (i.e. Longshoreman's): Statutory
- c. Employer's Liability:

Bodily Injury by Accident \$500,000 each incident  
 Bodily Injury by Disease: \$500,000 each employee  
 Bodily Injury by Disease: \$500,000 policy limit

The Contractor and any subcontractor shall maintain adequate worker's compensation insurance in conformance with the laws of the State of Missouri and/or Federal laws where applicable to cover all employees under performance of services, or during delivery, installation, assembly or related services in conjunction with this Agreement. The Contractor and any subcontractor further agree to hold KCATA harmless from any costs due to accident or other liabilities that may be subject to the Worker's Compensation Law.

**.2 Commercial General Liability** (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operation; Broad Form Property Damage, Broad Form CGL; Blanket Contractual; X, C, and U).

- a. Bodily Injury:
 

Each Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000
- b. Property Damage:
 

Each Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000
- c. Personal Injury:

Annual Aggregate \$2,000,000

- d. Products Liability and Completed Operations Insurance to be maintained for one (1) year after final payment.
- e. Property Damage Liability Insurance shall include X, C, or U coverage if exposure exists.
- f. Broad Form Property Damage shall include Completed Blanket Operations.

**.3 Umbrella/Excess Liability Policy \$5,000,000.**

**.4 Blanket Contractual Liability:**

- a. Bodily Injury:
  - Each Occurrence \$1,000,000
  - Annual Aggregate \$1,000,000
- b. Property Damage:
  - Each Occurrence \$1,000,000
  - Annual Aggregate \$2,000,000

**.5 Comprehensive Automobile Liability (including owned, hired, and non-owned vehicles):**

- a. Bodily Injury:
  - Each Occurrence \$1,000,000
  - Annual Aggregate \$1,000,000
- b. Property Damage \$1,000,000 Each Occurrence

Contractor shall procure and maintain at all times during the term of this Agreement Commercial General Liability insurance for liability arising out of the operations of the Contractor and any subcontractor. The policy(ies) shall include Comprehensive Automobile Liability coverage for all vehicles, licensed or unlicensed, on or off 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 Agreement. The policy(ies) shall include coverage for the Contractor's and its subcontractors' products and completed operations. The Contractor shall be responsible for all premiums associated with the requested policy(ies) and endorsements. The policy(ies) shall include coverage for the Contractor's and Subcontractors' products and completed operations for the duration of warranty terms or at least two (2) years following the project completion, longer, or as otherwise noted.

The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) coverage for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) coverage for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

**.6 Professional Liability Insurance: \$1,000,000.00 Each Occurrence  
\$5,000,000.00 Annual Aggregate**

Where applicable, Contractor shall procure and maintain professional liability insurance covering damages caused by any error, omission or any negligent acts of the Contractor or its employees with regard to Contractor's performance and arising from the work performed under the Purchase Order or this Agreement. Insurance for negligent acts, errors, or omissions committed or alleged to have been committed by Contractor and professional subcontractors shall be provided.

The Contractor will maintain the above Professional Liability coverage and limits for a minimum of two years beyond the expiration date of this Agreement and any extension thereof. In lieu of the foregoing, KCATA will accept a certified copy of the policy with an endorsement extending the discovery period for two years and that KCATA will receive written notice within thirty days of any change in the extended discovery period.

In lieu of providing professional liability coverage for professional subcontractors, Contractor may cause professional subcontractors to independently comply with this section.

- .7      **Pollution Liability**      \$1,000,000 Each Occurrence  
\$5,000,000 Annual Aggregate

Where applicable, the Contractor shall obtain and keep in effect during the term of the KCATA Purchase Order or this Agreement, Pollution Liability Insurance including clean up and remediation costs arising out of the work or services to be performed under the purchase order or this Agreement. 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.

- .8      The Insurer(s) for Contractor 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.

- .9      **Cyber Liability Policy**      \$1,000,000 Each Occurrence

**§ 11.1.3 Certificates of Insurance/Endorsements.** The Contractor shall be required to furnish certificates of insurance prior to execution of the contract. The insurance should be written with companies acceptable to the 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 Self Insurance Fund (BASIF).

- .1      **The Certificate and the policies shall state that the Kansas City Area Transportation Authority, its commissioners, officers, and employees are named as additional insureds on the policies covered by the certificate, except Professional Liability and Workers Compensation.** The KCATA will be given a 30-day notice prior to any decrease in limits or cancellation of any policy covered by the certificate of insurance.
- .2      In no event shall the total limit(s) of liability available for any one occurrence or accident be less than the amount shown above.
- .3      An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required in this Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness. The certificate of insurance shall specifically state that blanket contractual liability is applicable. Explosion, collapse, and underground coverage shall be included when the exposure exists.
- .4      In addition to the above certificates required herein, the Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits. Pertaining to the "Other Insurance" clause in the Contractor's policy - the Insurance Certificate shall state that **"any coverage afforded the certificate holder as an additional insured shall apply as primary and not excess or contributing to any insurance issued in the name of the certificate holder."**

**§ 11.1.4 Policies.** The Contractor shall be required to furnish to KCATA copies of required insurance policies and relevant additional insured endorsements of insurance upon request. If copies of the required insurance policies or endorsements are then 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 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.***"

§ 11.1.5 If the Owner is damaged by the failure of the Contractor to maintain the required insurance and to provide the required certificates to Owner, the Contractor shall bear all reasonable costs properly attributable thereto.

§ 11.1.6 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 insurer's obligation to pay defense costs under the policies is in addition to, and not part of the liability limits stated in the policies.

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§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining an Owner's Excess liability insurance.

*(Paragraphs deleted)*

## § 11.3 PROPERTY INSURANCE

§ 11.3.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the



Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

*(Paragraphs deleted)*

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If this insurance is written with the stipulated amounts deductible under the terms of the policy, the Contractor shall pay the difference attributable to deductions in any payments made by the insurance carrier on claims paid by this insurance.

§ 11.3.1.3 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.4 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### § 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

#### § 11.3.4 WAIVERS OF SUBROGATION – NOT USED

§ 11.3.5 A loss insured under the Contractor's property insurance shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.6 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.7 The Contractor as fiduciary shall have the power to adjunct and settle a loss with insurers and any of the parties interested.

#### § 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as well as statutory and a two (2) year Maintenance Bond. Bonds may be obtained through the Contractor's usual source, and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum unless otherwise stated in the INVITATION FOR BIDS (IFB). A cash deposit, certified check, irrevocable letter of credit (LOC), or other negotiable instrument may be accepted by KCATA in lieu of a payment bond. The form of any substitution in lieu of a payment and performance

bonds must be approved by KCATA. The cash deposit, certified check, irrevocable LOC, or other negotiable instrument accepted in lieu of such bonds must remain valid and in effect for the full term of this Agreement.

§ 11.4.1.1 If used, the LOC shall be irrevocable, unconditional, and issued by an acceptable federally insured financial institution. The LOC must cover the entire period of performance or may be submitted with an initial expiration date, which is a minimum period of one year from the date of issuance, with a provision, which states that the LOC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of performance is completed. The period of performance shall not end until resolution of all claims filed against the payment bond during the one-year period following final payment.

§ 11.4.1.2 The Contractor shall deliver the required bonds to the KCATA not later than seven (7) calendar days following the date of the Notice of Intent to Award. A licensed surety company shall secure the payment and performance bonds and maintenance bond. The payment and performance bonds shall remain valid and in effect for the full term of this Agreement.

§ 11.4.1.3 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

§ 11.4.2 Prior to final payment, the Contractor shall furnish separate maintenance (or guarantee) bonds in form acceptable to KCATA written by the same corporate surety that provides the performance bond for this Agreement. The maintenance bond shall secure the Contractor's obligation to replace or repair defective products, equipment and materials and faulty workmanship for a minimum period of two (2) years after substantial completion and shall be written in an amount equal to one hundred percent (100%) of the Contract Sum, as adjusted (if at all).

§ 11.4.2.1 The effective date of the two (2) year Maintenance Bond is the date of Substantial Completion.

§ 11.4.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

§ 12.1.1 All work shall be inspected by Owner's representative prior to being covered or installed. If Contractor fails to properly inform Owner's representative prior to covering or installing work, it will be at Owner's discretion to require the Work to be removed and reinstalled under Owner's inspection and approval. If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### **§ 12.2 Correction of Work**

#### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### **§ 12.2.2 After Substantial Completion**

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the

Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. After the two-year warranty period, if Owner discovers a recurrence of a problem previously identified during the warranty period, the Owner may require the Contractor to complete the repairs or make the corrections at the Contractor's expense.

§ 12.2.2.2 The two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 Not used.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

This Agreement shall be deemed to have been made in, and be construed in accordance with the laws of the State of Missouri, except those pertaining to conflicts of laws. **ANY ACTION OF LAW, SUIT IN EQUITY, OR OTHER JUDICIAL PROCEEDING TO ENFORCE OR CONSTRUCT THIS AGREEMENT, RESPECTING ITS ALLEGED BREACH, SHALL BE INSTITUTED ONLY IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI.**

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to another public entity or a lender providing construction financing for the Project, if the public entity or the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. The Contractor has an affirmative duty to provide an active, current and valid business address to the Owner where Contractor can receive notices under this contract.

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall be required to coordinate with Owner's representative such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public entity. Copies of such test results and inspections shall be filed with the Architect and the KCATA. The Owner will select a testing laboratory and shall bear all costs of test, inspections, and approvals. The Contractor shall give the testing laboratory, the Architect and the KCATA's Project Manager timely notice of when and where tests and inspections are to be made so that they may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements. All work shall be tested and inspected by Owner's representative prior to being covered or installed. If Contractor fails to properly inform Owner's representative prior to covering or installing work, it will be at Owner's discretion to require the Work to be removed and reinstalled under Owner's inspection and approval.

§ 13.4.1.1 Pre-contract award inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of 1) Contractor until after bids are received or negotiations concluded; and (2) tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.



(Paragraphs deleted)

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **§ 14.1 Termination by the Contractor**

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

**§ 14.1.2** The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 150 percent of the total number of days scheduled for completion, or 180 days in any 365-day period, whichever is less.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, completed, and accepted, including reasonable overhead and profit, and costs incurred by reason of such termination. Contractor shall not be entitled to project profit or overhead costs and expenses for uncompleted work.

**§ 14.1.4** If the Work is stopped for a period of 90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### **§ 14.2 Termination by the Owner for Cause**

**§ 14.2.1** The Owner may terminate the Contract and/or Contractor's right to perform or complete Work if the Contractor:

- .1 refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

**§ 14.2.2** When any of the reasons described in Section 14.2.1 exist, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

**§ 14.2.3** When the Owner terminates the Contract and/or Contractor's right to perform or complete the Work for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

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§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract and/or Contractor's right to perform or complete the Work; provided, that such payment shall not exceed the value of the Work actually completed and materials supplied as of the date of termination, and the Contractor shall not be entitled to anticipated profits or anticipated overhead upon the whole Contract or for other direct, indirect, or consequential damages arising out of or resulting from the Owner's termination.

§ 14.2.5 **Funding Contingency.** If this Agreement 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 this Agreement in accordance with other provisions of this Agreement.

§ 14.2.6 **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.

### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include real costs incurred by Contractor during suspension. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

### § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Such termination shall be without prejudice to any Claims which Owner may have against the Contractor.

§ 14.4.1.1 The Owner may, at any time, terminate the Contract if the Owner determines that Owner does not have sufficient funds for the lawful purpose of paying obligations of Owner under the Contract between the Owner and Contractor. The Owner and Contractor acknowledge the provisions and limitations of the Missouri cash-basis law, Mo. Const. Art. 6, §26(a) and RSMo 67.010 *et seq.*, as amended, and agree that the Contract between Owner and Contractor will be deemed void *ab initio*.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for work executed and costs incurred by reason of such termination. No compensation for overhead or profit will be made for work not executed.

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes

and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

#### **§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### **§ 15.1.3 Notice of Claims by Contractor**

**§ 15.1.3.1** Claims by Contractor must be initiated by written notice to Owner and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by Contractor must be initiated within 7 days after occurrence of the event giving rise to such Claim or within 7 days after Contractor first recognizes the condition giving rise to the Claim, whichever is later. Notice shall include an estimated cost for the claim. Any claim not timely submitted is waived.

*(Paragraph deleted)*

#### **§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

#### **§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, timely notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. Any claim not timely submitted is waived.

#### **§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Any claim not timely submitted is waived.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. For conditions of weather or conditions at the site, an average or usual number of inclement days when the Work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.

.1 Time Extensions for Unusually Severe Weather:

.2 Definitions:

.1 **Adverse Weather:** Atmospheric conditions or the impact thereof at a definite time and place which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent (50%) or more of the Contractor's scheduled workday.

.2 **Unusually Severe Weather:** Weather which is more severe than the adverse weather anticipated for the season, location, or activity involved.

.3 In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:

- .1 The weather experienced at the project site during the Contract period is more severe than the adverse weather anticipated for the project location during any given month; and
- .2 The unusually severe weather actually caused a delay to the completion of the project. The delay must be beyond the control and without fault or negligence by the Contractor.
- .3 The following schedule of monthly anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

**MONTHLY ANTICIPATED ADVERSE WEATHER DELAY  
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK**

January	.....10	May	.....	September	..... <sup>4</sup>
February	.....8	June	.....	October	..... <sup>4</sup>
March	.....7	July	.....	November	..... <sup>4</sup>
April	.....6	August	.....	December	..... <sup>4</sup>

.4 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.

.5 The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full work days.

.6 If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying work day delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.

.7 The determination that unusually severe weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.

.8 Full consideration for equivalent fair weather work days shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any work day increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.

.9 The net cumulative total of extra days/lost days shall not result in a reduction of



Contract Time and the Date of Substantial Completion shall not be changed as a result of unusually favorable weather.

- .10 In converting work days to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.
- .11 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Architect by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- .12 Any claim for extension of time due to unusually severe weather shall be submitted to the Architect within 15 days of the last day of the month in which the delay occurred. Resolution of any claim shall follow the procedures established by the General Conditions of the Contract for Construction and as prescribed above.
- .13 The Contractor shall include and indicate the monthly anticipated adverse weather days, listed above, in their Progress Schedule.
- .14 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated delays) in their monthly Progress Schedule update.

**§ 15.1.6.3** Bid unit prices shall be used for either increases or decreases in pricing of Change Orders. Contract price adjustment by Change Order requires all savings shall accrue one hundred percent (100%) to the KCATA. The Contractor will substantiate all "lump sum" bid prices by presentation of vendors or subcontractors invoices which will be price adjusted by the Contractor's fee for overhead and profit.

#### **§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons;
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work; and
- .3 the negligent acts of the Contractor or his subcontractors which cause additional expense to the Owner for rental, for loss of use, income, profit, financial business, and representation and for loss of management or employee productivity or of the services of such persons are exempt from this mutual waiver.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

#### **§ 15.2 Initial Decision**

**§ 15.2.1** Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to litigation.

§ 15.2.6 If a claim has not been resolved after consideration of the foregoing, and of further evidence presented by the parties, or requested by the Architect, the dispute shall be decided by the Owner's Director of Procurement as Initial Decision Maker, who shall reduce this decision to writing and furnish a copy thereof to the Contractor. The decision of the Director of Procurement shall be final and conclusive unless within ten (10) days from the date of receipt of such copy, the Contractor furnishes a written appeal addressed to the KCATA's Senior Vice President Administration/Chief Financial Officer (CFO) with copy to the Director of Procurement, for the determination of such appeals which shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, 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, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Director of Procurement's decision.

*(Paragraph deleted)*

§ 15.2.7 The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law or equity.

§ 15.2.8 No action or failure to act by the KCATA shall constitute a waiver of any right or duty afforded any of them under this Agreement, 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.

§ 15.2.9 This clause does not preclude consideration of questions of law in connection with decisions provided for above. On procurement items in which the Federal Transit Administration (FTA) funding is involved, the Contractor shall be aware of protest procedures with the FTA Regional Office.

§ 15.2.10 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.11 Any claim not resolved will be decided by litigation. Venue and jurisdiction for any lawsuit will be the locale of the Project.

## **ARTICLE 16 ADDITIONAL GOVERNMENTAL CONDITIONS**

### **§ 16.1 ACCEPTANCE OF MATERIALS, ETC. – 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 Agreement. KCATA reserves the right and shall be at liberty to inspect all products, equipment or materials and workmanship at any time during the manufacturing process, and shall have the right to reject all materials and workmanship which do not conform with the conditions, contract requirements and specifications; provided, however, that KCATA is under no duty to make such inspection, and no inspection so made shall relieve the Contractor from any obligation to furnish products, equipment or materials and workmanship in accordance with the instructions, contract requirements and specifications.

### **§ 16.2 AGREEMENT IN ENTIRETY**

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

### **§ 16.3 ASSIGNABILITY**

The Contractor shall not assign any interest in this Agreement 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 Agreement, all of the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representative.

### **§ 16.4 AUDIT AND INSPECTION OF RECORDS**

*See § 16.41 for the Audit and Inspection of Records Provision*

### **§ 16.5 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 "Notification and Communication" regarding the contract document. 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 Agreement.

### **§ 16.6 BREACH OF CONTRACT; REMEDIES**

**§ 16.6.1** If the Contractor shall fail, refuse or neglect to comply with the terms of this Agreement, 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.

**§ 16.6.2** 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 KCATA shall constitute a waiver of any right or duty afforded under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

### **§ 16.7 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.

## § 16.8 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 (FTA MA (28) dated February 9, 2021), 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.

## § 16.9 CIVIL RIGHTS

**§ 16.9.1 Non Discrimination** – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the 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.

**§ 16.9.2 Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract.

**§ 16.9.2.1 Race, Creed, Color, National Origin, Disability, Age or Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, *et seq.*; 49 C.F.R. part 21; 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), U.S. Department of Justice (DOJ) 28 C.F.R. §; 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.

- .1 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by an appropriate agency of the Federal Government setting forth the requirements of these nondiscrimination provisions.
- .2 The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, sex, religion, national origin, or age.
- .3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Owner, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**§ 16.9.2.2 Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S.EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, and U. S. Department of Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F. R. part 90, 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.



**§ 16.9.2.3 Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et eq.*, and the Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**§ 16.9.3 ADA Access Requirements.** In accordance with section 102 of the Americans with Disabilities Act, as amended; 49 C.F.R. part 27; 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.

**§ 16.9.4** The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by an appropriate agency of the Federal Government and by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

**§ 16.9.5** In the event of the Contractor's noncompliance with the Equal Opportunity conditions of this Contract, KCATA shall impose such sanctions as it, or the U.S. Department of Transportation, may determine to be appropriate including, but not limited to withholding of payments to the Contractor under this Contract until the Contractor complies, and/or cancellation, termination, or suspension of the Contract, in whole or in part, and the Contractor may be declared ineligible for further Government contracts of Federally-assisted contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

**§ 16.9.6** The Contractor will include all clauses 16.1.2.1 to 16.1.2.7 inclusive in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any Subcontractor or vendor as the appropriate agency of the Federal Government may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the appropriate agency of the Federal Government, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**§ 16.9.7** Exemptions to the requirements of the above Equal Opportunity conditions are construction Contracts and Subcontracts not exceeding \$10,000, and Contracts and Subcontracts with regard to Work performed outside the United States by employees who were not recruited in the United States.

#### **§ 16.10 COMPLETION AND LIQUIDATED DAMAGES**

KCATA will suffer financial loss if the Work is not Substantially Complete on the date set forth in the contract documents. The Contractor and the Contractor's Surety shall be liable for and shall pay the Owner the sums previously stipulated, fixed and agreed. Liquidated damages (not a penalty) shall be for each day of delay until the Work is Substantially complete. The Owner is authorized to withhold from monies due the Contractor the sum as indicated above that has been assessed as liquidated damages (not a penalty).

#### **§ 16.11 CONFLICTS OF INTEREST (ORGANIZATIONAL)**

In accordance with 2 C.F.R. § 200.112, 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.

#### **§ 16.12 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.

#### **§ 16.13 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.

#### **§ 16.14 DEBARMENT AND SUSPENSION CERTIFICATION**

**§ 16.14.1** The Contractor shall comply and facilitate compliance with U.S. DOT regulations "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the U.S. Office of Management and Budget & U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180.

**§ 16.14.2** 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.

**§ 16.14.3** 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.

**§ 16.14.4** 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.

#### **§ 16.15 DELIVERY**

**§ 16.15.1** Materials, products and/or equipment shall be delivered to Kansas City Area Transportation Authority, Central Receiving Facility, Building #1, 1350 East 17th 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.

**§ 16.15.2** 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.

**§ 16.15.3** 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 products, equipment or materials 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.

#### **§ 16.16 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

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

Init.

- .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 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.

**§ 16.16.2** This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE's) is 10 percent. *KCATA's overall goal for DBE participation is 23.3 percent.* A separate contract goal of **fifteen percent (15%)** has been established for this procurement.

**§ 16.16.3** The Contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR. Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as KCATA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

**§ 16.16.4** The Contractor may not substitute, remove, or terminate a DBE subcontractor without KCATA's prior written consent. Written consent of termination may only be given if the Contractor has demonstrated good cause. 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. The Contractor must give the DBE five days to respond to the 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 Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.

**§ 16.16.4.1 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 to its 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.

**§ 16.16.4.2** 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. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the 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.

#### **§ 16.16.5 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.

#### **§ 16.17 EMPLOYEE ELIGIBILITY VERIFICATION**

**§ 16.17.1** 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.

**§ 16.17.2** 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.

#### **§ 16.18 EMPLOYEE PROTECTIONS**

##### **§ 16.18.1 Construction Employee Protections.**



**.1 Davis-Bacon and Copeland Anti-Kickback Standards Acts.**

- .1** The Contractor agrees to comply and assures compliance with the requirements of 40 U.S.C. 3141-3144 and 3146-3148, *et seq.* and Section 1 of 18 U.S.C § 874, and Section 2 of 40 U.S.C. 3145, as amended and implementing U.S. Department of Labor regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-Construction Contracts Subject to the Contract Work Hours and Safety Standards Act," 29 C.F.R. Part 5.
- .2** Contractor shall comply with all rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 which are incorporated by reference in this Contract.
- .3** The Contractor agrees to pay wages to laborers and mechanics performing Contract work at a rate not less than the minimum wages specified in a wage determination issued by the U.S. Secretary of Labor and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 C.F.R. Part 3)). The Contractor agrees to place a copy of the current prevailing wage determination issued by the U.S. DOL in each solicitation for subcontractor work under this project and agrees to refrain from awarding any affected contracts until the subcontractor agrees to the required wage determination.
- .4** The KCATA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the KCATA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- .5** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section 5.5(a)(3)(i) of the Regulations, 29 C.F.R. Part 5. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.
- .6** Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

  - .1** **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a state apprenticeship agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not

individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

- .2 Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.
- .7** The Contractor must submit a copy of all payrolls each week to KCATA's project manager. The copy is to be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, and that the wage rates contained therein are not less than those determined by the Secretary of Labor. Upon completion of the Contract, the Contractor is to submit to KCATA's project manager, a certificate concerning wages and classifications for laborers and mechanics.
- .8 Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- .9 Contract Termination -- Debarment.** A breach of the clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- .10 Disputes Concerning Labor Standards.** Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general dispute clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- .11 Certification of Eligibility.** By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- .12** No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- .2 Veterans Employment Preference.** Contractors working on a federally funded capital project shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C. § 2018) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or

former employee.

**.3 Special Equal Employment Opportunity (EEO) Provision for Construction Contracts.**  
During the performance of this Contract, Contractor agrees as follows:

- .1** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- .2** Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- .3** Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- .4** Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- .5** Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- .6** Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- .7** In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- .8** Contractor will include the portion of the sentence immediately preceding paragraph (1)

and the provisions of paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **§ 16.18.2 Employee Protections – General.**

### **.1 Contract Work Hours and Safety Standards Act.**

- .1 Overtime Requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. (40 U.S.C. § 3701-3708 *et seq* and supplemented by Department of Labor (DOL) Regulations 29 CFR part 5)
- .2 Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in Paragraph 1 of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Paragraph 1 of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in Paragraph 1 of this section.
- .3 Withholding for Unpaid Wages and Liquidated Damages.** The KCATA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Paragraph 2 of this section.
- .4 Safety Standards.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous as prohibited by the safety requirements of section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3704, and its implementing U.S. Department of Labor regulations, "Safety and Health Regulations for Construction," 29 CFR Part 1926.
- .5 Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in Paragraphs 1 through 5 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall

be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Paragraphs 1 through 4 of this section.

#### **§ 16.19 ENVIRONMENTAL REGULATIONS**

**§ 16.19.1 Clean Air.** The Contractor shall 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 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 the FTA and the appropriate U.S. EPA Regional Office will be notified.

**§ 16.19.2 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 receiving more than \$100,000 from this Contract to report any violation of these requirements resulting from any project implementation activity to the KCATA. The Contractor understands that the KCATA will, in turn, report each violation as required to assure notification to the FTA and the appropriate U. S. EPA Regional Office will be notified.

**§ 16.19.3 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.

**§ 16.19.4 Recovered Materials.** 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.

**§ 16.19.5** The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **§ 16.20 FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

**§ 16.20.1** Pursuant to 48 CFR Parts 1, 4, 9, 12 and 52 the Contractor affirmatively represents and certifies that it, nor any of its directors, officers, principals, or agents:

- .1 are delinquent in paying any federal tax liability;
- .2 have not been convicted of any felony criminal violation under any Federal law within the preceding 24 months; or
- .3 have not more than 90 days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.

**§ 16.20.2** The Contractor agrees to include these requirements (Section XX.1.) in all subcontracts at all tiers, regardless of value, and to obtain the same certification and disclosure from all subcontractors (at all tiers).

#### **§ 16.21 FEDERAL PARTICIPATION NOTIFICATION**

This project is a federal Department of Transportation/Federal Transit Administration grant funded project. Compliance with all applicable federal regulations is mandatory.

#### **§16.22 FORCE MAJEURE**

**§16.22.1** Both Parties shall be excused from performing its obligations under this Contract during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control ("**Excusable Delays**") including, but not limited to: any incidence of fire, flood; acts of God or the public enemy; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; acts of war; terrorism; strikes; any acts, restrictions, regulations, by-laws; prohibitions or measures of any kind on the part of any KCATA; freight embargoes; delays of Contractor's suppliers for like causes; contractual acts of either Party or a material act of omission by either



Party; when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Contractor or KCATA. Contractor and KCATA shall use its best efforts to remove the cause of delay and resume work as soon as possible.

**§16.22.2** If at any time, Contractor concludes that any of the Work hereunder will become subject to a delay beyond Contractor's control, including but not limited to any of the aforementioned causes, Contractor shall notify KCATA of the nature and detailed reasons and foreseeable extent of such delay and shall, once every seven (7) calendar days thereafter, notify KCATA whenever, to the best of Contractor's knowledge and belief, the nature or foreseeable extent of such delay shall change. Contractor shall provide this written notice within five (5) business days of Contractor's becoming aware of the facts or matters giving rise to such Excusable Delay. Both Parties shall keep in contact with each other as to the status of such Excusable Delay and shall agree in writing to a restart date when the facts or matters giving rise to such Excusable Delay have concluded and further delays are not foreseen. Upon reengagement of work, Contractor and KCATA will formulate and agree upon an update project schedule, taking into account the timeframe that has passed since the work stoppage, necessary time to resume or re-create any previously completed tasks due to damaged or missing equipment and any associated time periods for shipment and/or manufacture of equipment.

### **§ 16.23 FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

**§ 16.23.1** 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.

**§ 16.23.2** 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.

**§ 16.23.3** 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

### **§ 16.24 GENERAL PROVISIONS**

**§ 16.24.1 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.

**§ 16.24.2 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.

**§ 16.24.3 Time of Essence.** Time is of the essence in Contractor's performance of this Agreement.

**§ 16.24.4 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.

**§ 16.24.5 Binding Effect.** This Contract shall bind and inure to the benefit of the legal representatives, successors, and permitted assigns of the parties.

**§ 16.24.7 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.

**§ 16.24.8 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.

**§ 16.24.9 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.

**§ 16.24.10 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.

**§ 16.24.11 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.

**§ 16.24.12 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.

**§ 16.24.13 Notice of Legal Matters.** If this project is federally funded and is expected to equal or exceed \$25,000, KCATA agrees to notify the FTA Chief Counsel or FTA Regional VII legal counsel of a current or prospective legal matter that may affect the Federal government. Contractor agrees this affirmative notification provision will apply to subcontractors and suppliers and is to be included in all agreements at all tiers. Failure to include this notice may be deemed a material breach of contract.

## **§ 16.25 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.

## **§ 16.26 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.

## **§ 16.27 INDEPENDENT CONTRACTOR**

**§ 16.27.1** 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.

**§ 16.27.2** 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.

## **§ 16.28 INSPECTION OF SERVICES**

**§ 16.28.1** 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.

**§ 16.28.2** 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 as the Contract requires.

**§ 16.28.3** 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.

**§ 16.28.4** 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.

**§ 16.28.5** 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.

## **§ 16.29 LABOR DISPUTE CLAUSE**

**§ 16.29.1** All disputes concerning the payment of prevailing wage rates or classifications shall be promptly reported to the Owner for its referral to DOT for decision or, at the option of the Owner, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor as the case may be, shall be final.

**§ 16.29.2** All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to FTA for referral to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final.

**§ 16.29.3 Convict Labor.** In connection with the performance of work under this Contract, the Contractor agrees not to employ any person undergoing service or imprisonment at hard labor. This does not include convicts who are on parole or probation.

## **§ 16.29.4 Minimum Wages:**

- .1 All mechanics and laborers employed or working directly upon the site of the Work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or



rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR Part 30), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor, which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or Subcontractor and such laborers and mechanics, and the wage decision shall be posted by the Contractor at the site of the work in a prominent place where it can be seen by the workers.

- .2 KCATA shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the Contract shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent to the appropriate Federal agency. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees, to be used, KCATA shall submit the questions together with his recommendation through the appropriate Federal agency to the Secretary of Labor for final determination.
- .3 KCATA shall require, whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obliged to pay a cash equivalent of such a benefit, an hourly cash equivalent thereof to be established. In the event interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the KCATA shall be referred to the Secretary of Labor for determination.
- .4 If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs expressly listed in the wage determination decision of the Secretary of Labor which is a part of this Contract: provided, however the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

#### § 16.29.5 Miscellaneous Labor Provisions:

- .1 **Final Labor Summary.** The Contractor and each Subcontractor shall furnish to the Owner, upon the completion of the Contract, a summary of all employment, indicating, for the completed project, the total hours worked, and the total amount earned.
- .2 **Final Certificate.** Upon completion of the Contract, the Contractor shall submit to the Owner with the voucher for final payment for any work performed under the Contract, a certificate concerning wages including apprentices and trainees, employed on the project, in the following form:

"The undersigned, Contractor on \_\_\_\_\_ (Contract No.) hereby certifies that all laborers, mechanics, apprentices, and trainees employed by him or by a Subcontractor performing work under this Contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice, or trainee conformed to the classifications set forth in the Contract or training program provisions applicable to the wage rate paid.

Signature and Title:  
\_\_\_\_\_

**§ 16.29.6 Notice to the Owner of Labor Disputes.** Whenever the Contractor has knowledge that any actual or potential labor dispute is delayed or threatens to delay the timely performance of this Contract, the Contractor shall

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immediately give notice thereof, including all relevant information with respect thereto, to the Owner.

#### **§ 16.30 LIABILITY AND INDEMNIFICATION**

**§ 16.30.2 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.

**§ 16.30.3 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.

#### **§ 16.30.4 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, 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. Contractor shall also indemnify, hold harmless and defend the KCATA for any contractor or subcontractor action, tort, or violation of federal or state law or city ordinance.
- .2** In claims against any person or entity indemnified under this section, by an employee or Contractor, or anyone directly or indirectly employed by any of them, the subcontractor or sub-subcontractor 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. Under these circumstances, KCATA retains the right to recover all costs of defense from the Contractor.
- .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.

**§ 16.30.5 Release of Liability.** Contractor, its officers, directors, employees, heirs, administrators, executors, agents and representatives and respective successors and assigns hereby fully release, remise, acquit and forever discharge the KCATA and its commissioners, officers, directors, attorneys, employees, agents, representatives and its respective successors and assigns from any and all actions, claims, causes of action, suits, rights, debts, liabilities, accounts, agreements, covenants, contracts, promises, warranties, judgments, executions, demands, damages, costs and expenses, whether known or unknown at this time, of any kind or nature, absolute or contingent, existing at law or in equity, on account of any matter related to this agreement, cause or thing whatsoever that has happened, developed or occurred before or after you sign and deliver this Contract to KCATA. This release will survive the termination of this Contract.

## **§ 16.31 LICENSING, LAWS AND REGULATIONS**

**§ 16.31.1** 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.

**§ 16.31.2** 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.

**§ 16.31.3** The Contractor shall be responsible for obtaining all required permits and licenses required to complete construction and installation of the work.

## **§ 16.32 LOBBYING RESTRICTIONS**

**§ 16.32.1** 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, as amended; 2 C.F.R. § 200.450, 2 C.F.R. part 200 appendix II (J) and 49 CFR Part 20, to the extent consistent with 31 U.S.C. § 13532, as amended. The Contractor agrees to comply with this requirement throughout the term of the Contract.

**§ 16.32.2** 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).

## **§ 16.33 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(c), 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.

## **§ 16.34 NOISE CONTROL**

**§ 16.34.1** All equipment shall be designed and selected to be free of objectionable noise and vibration. Hoists, compressors, and other machinery shall be housed in sound-attenuating enclosures.

**§ 16.34.2** Engine-driven equipment shall be equipped with exhaust and, where appropriate, air intake silencers designed for the maximum degree of silencing. The type of silencer required is that for use in critical noise-problem locations such as high-density residential and hospital areas.

## **§ 16.35 NOTIFICATION AND COMMUNICATION**

**§ 16.35.1** Communications regarding technical issues and activities of the project shall be exchanged with (Name), KCATA's (Title), at (816) 346- or via e-mail at [@kcata.org](mailto:@kcata.org).

**§ 16.35.2** 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:

Name, Title  
Kansas City Area Transportation Authority  
1350 East 17<sup>th</sup> Street  
Kansas City, MO 64108

If to Contractor:

\_\_\_\_\_

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

**§ 16.35.4** 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.

#### **§ 16.36 PAYROLLS AND BASIC RECORDS**

**§ 16.36.1** The Contractor shall maintain payrolls and basic records relating thereto during the course of the Work and shall preserve them for a period of three (3) years thereafter for all laborers and mechanics, including apprentices and trainees, working at the site of the Work. Such records shall contain the name and address of each employee, his correct classification, rate of pay (including rates of contributions for, or cost assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Contract has obtained approval from the Secretary of Labor as provided in this Agreement, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

**§ 16.36.2** The Contractor shall submit weekly a copy of all payrolls to the KCATA. The prime Contractor shall be responsible for the submission of copies of payrolls of all Subcontractors. Each such copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classification set forth for each laborer mechanic, including apprentices and trainees, conform to the work he performed. Submission of the "Weekly Statement of Compliance" required under this Contract and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) shall satisfy the requirement for submissions of the above statement. The Contractor shall also submit a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by this Agreement.

**§ 16.36.3** Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted on the Owner that their employment is pursuant to an approved program and shall identify the program. Contractors and subcontractors may not employ "helpers" as the term is defined in DOL Memorandum No. 174, dated December 2, 1993, included in Section 4.2, Federal Wage Rates.

**§ 16.36.4** The Contractor will make the records required under the labor standards clauses of the Contract available for inspection by authorized representatives of the Owner, the appropriate Federal agency, and the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

#### **§ 16.37 PRIVACY ACT REQUIREMENTS**

**§ 16.37.1** The Contractor agrees to comply with, and assures the compliance of its employees and subcontractors with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552. Among other things, the Contractor agrees to obtain the express consent of the KCATA and/or the Federal Government before the Contractor or its employees operate a system of records on behalf of the KCATA or Federal Government.

**§ 16.37.2** The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to all individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

**§ 16.37.3** The Contractor agrees that strict privacy will be maintained in the collection, storage, use, transfer, access to and/or security of personnel information. Contractor agrees to protect such information, and to limit the use of the information to that required by the contract.

**§ 16.37.4** Contractor shall be liable to each employee for loss of any private or personal information lost or left unsecure by Contractor. Contractor shall not have any personal employee information for any reason outside of this contract.

#### **§ 16.38 PROHIBITED INTERESTS**

**§ 16.38.1** 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.

**§ 16.38.2** 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.

### **§ 16.39 PROHIBITED WEAPONS AND MATERIALS**

**§ 16.39.1** Missouri Revised Statutes, Section 571.107 (RSMo §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.

*(Paragraph deleted)*

**§ 16.39.2** 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.

**§ 16.39.3** 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.

*(Paragraph deleted)*

**§ 16.39.4** 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.

**§ 16.39.5** 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.

*(Paragraph deleted)*

### **§ 16.40 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT**

Contractor represents that it is and will be compliant at all times with 2 CFR § 200.216 and will not provide telecommunications and/or video surveillance services or equipment to the KCATA in the performance of any contract, subcontract or other contractual instrument resulting from a solicitation or RFP that have been manufactured by a supplier (including any subsidiary or affiliate of those entities) that is considered prohibited or not approved under this regulation. This statute is not limited to entities that use end-products produced by those companies; and also covers the use of any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

### **§ 16.41 RECORD RETENTION AND ACCESS**

*(Paragraph deleted)*

**§ 16.41.1** 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 accordance with 2 CFR § 200.33, 49 U.S.C. § 5325(g) and 49 CFR part 633. In the event of litigation or settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain same until such litigation, appeals, claims, or exceptions related thereto have been disposed of.

**§ 16.41.2** The Contractor shall permit KCATA, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, as applicable, any local municipality, 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.

*(Paragraph deleted)*

**§ 16.41.3** 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.

#### **§ 16.42 SEAT BELT USE POLICY**

The 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 Contract.

*(Paragraph deleted)*

#### **§ 16.43 SEISMIC SAFETY**

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the Standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The Contractor agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

#### **§ 16.44 SEVERABILITY**

If any clause or provision of this Agreement is declared to be invalid by any court of competent jurisdiction, then and in that event, the remaining provisions hereof shall remain in force. In lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there shall be added as part of this Agreement, a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

*(Paragraph deleted)*

#### **§ 16.45 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.

#### **§ 16.46 SUBSTANCE ABUSE/DRUG ALCOHOL TESTING**

The Contractor agrees to comply with U.S. DOT regulation "Drug Free Workplace Requirements (Grant)," 40 CFR, Part 29, Subpart F. In addition, Contractor will comply with all drug, alcohol and substance abuse testing requirements for the KCATA.

*(Paragraph deleted)*

#### **§ 16.47 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.

#### **§ 16.48 UNAVOIDABLE DELAYS**

*(Paragraph deleted)*

**§ 16.48.1** 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.

**§ 16.48.2 Notification of Delays.** The Contractor shall notify the Director of Procurement as soon as the Contractor

has, or should have, knowledge that an event has occurred which will cause an unavoidable delay. Within five (5) days, the Contractor shall confirm such notice in writing, furnishing as much as detail as is available.

*(Paragraph deleted)*

**§ 16.48.3 Request for Extension.** The Contractor agrees to supply, as soon as such data is available, any reasonable proof that is required by the Director of Procurement to make a decision on any request for extension. The Director of Procurement shall examine the request and any documents supplied by the Contractor and shall determine if the Contractor is entitled to an extension and the duration of such extension. The Director of Procurement shall notify the Contractor of its decision in writing.

**§ 16.48.4** It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation and shall not be reimbursed for losses on account of delays resulting from any cause under this provision, except to the extent the Contractor's delay was attributable to KCATA's non-performance of its duties herein.

*(Paragraph deleted)*

#### **§ 16.49 UNLAWFUL EMPLOYMENT PRACTICE**

*(Paragraphs deleted)*

**§ 16.49.1** The Contractor and each Subcontractor agrees to refrain from any unlawful employment practices as presently defined by Section 26.222, Revised Ordinances, City of Kansas City, Missouri, and that such person will post on his or its premises at the office of employment notices setting forth the provisions of Section 26.222, and further setting forth that such person agrees to abide by said provisions; that such person agrees to implement the Certificate of Compliance or Affirmative Action Program submitted by him in connection with this Contract, and that such person shall be bound by the terms of Section 26.233, Revised Ordinances, City of Kansas City, Missouri, and by the Rules and Regulations promulgated for the administration of Section 26.288 through 26.243.

**§ 16.49.2** Every person subject to Section 26.233 is hereby deemed to agree to permit the authorized representative of the KCATA, the Director of Human Relations of the City of Kansas City, Missouri, or his duly authorized agents or employees, access at all reasonable times to all such persons, books, papers, records, reports, or accounts in the possession of or under the control of such person, as may be necessary to ascertain compliance with Section 26.233, and to furnish such further information as may be required of him, all within ten (10) days of the date requested in writing.

**§ 16.49.3** If the Contractor shall fail, refuse, or neglect to comply with the terms of these Contract Conditions, such failure shall be deemed a total breach of this Contract; and such Contract may be terminated, canceled, or suspended, in whole or in part, and such Contractor may be declared ineligible for any further KCATA contracts for a period of up to one year. Provided, that if this Contract is terminated, canceled, or suspended for failure to comply with Section 26.231, the Contractor shall have no claims for damages against the KCATA or the City of Kansas City, Missouri, on account of such termination, cancellation, or suspension or declaration of ineligibility.

**§ 16.49.4** All contracts executed by the Contractor with a Subcontractor and relating to this KCATA Contract, shall contain as a condition thereof, the provisions of Section 26.232, Revised Ordinances, City of Kansas City, Missouri, relating to contract conditions; and such subcontractor shall be subject to the provisions of Section 26.228 through 26.243.

#### **§ 16.50 UNITED STATES PREFERENCE**

##### **§ 16.50.1 Buy America.**

- .1** The Contractor agrees to comply with 49 U.S.C. §5323(j), and 49 CFR. Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment & software. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR Part 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 70 percent (70%) domestic content.



- .2 The Contractor further agrees to include these requirements in all subcontracts exceeding \$150,000.

#### § 16.50.2 Cargo Preference.

- .1 In the event that ocean shipment is required for any material or commodity pursuant to this Agreement, the Contractor agrees to utilize United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, to the extent such vessels are available at fair and reasonable rates for the United States-Flag commercial vessels.
- .2 The Contractor further agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "ON BOARD" commercial ocean bill-of-lading in English for each shipment of cargo described in the paragraph above to KCATA (through the Prime Contractor or in the case of subcontractor bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington, DC, 20590, marked with the appropriate identification of the Project.
- .3 The Contractor further agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, materials or commodities by ocean liner and exceeds \$150,000.

**§ 16.50.3 Fly America.** In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118 - the "Fly America" Act), and in accordance with the General Service Administration's regulations at 41 CFR Part 301-10, recipients and subrecipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier (based on the reasons found in FAR § 47.403) and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation and exceed \$150,000.



# Additions and Deletions Report for AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 07:58:32 ET on 06/07/2022.

## PAGE 1

Kansas City Area Transit Authority  
Procurement Department

(hereinafter referred to as "KCATA" or "Owner")

## PAGE 10

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. ~~Unless specifically enumerated in the Agreement, the Contract Documents do not~~ The Contract Documents do include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

...

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes, but is not limited to, delivery, unloading, uncrating, assembling, setting-in-place, leveling, adjust, completely installing, commissioning, and cleaning up.

**§ 1.1.3.1 The Contractor warrants it has thoroughly investigated the Project conditions and, unless otherwise stated in the Contract Documents, has adequate information to fully construct the Project for the agreed upon terms.**

**§ 1.1.3.2 The Contractor shall thoroughly investigate and conform to all local trade jurisdictional rules and/or rulings and all workforce requirements (including WBE/MBE) and is responsible for the settlement of any disputes or fines arising from fabrication, installation, or completion of the Work under this Contract.**

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### **§ 1.1.9 Alternate Security**

Alternate Security means an irrevocable bank letter of credit, certificate of deposit, cash bond, or other type of asset or security of value equal to or exceeding the amount of retained funds, retention, or retainage. Alternate Security shall not include a performance or payment bond.

...

**§1.2.4 Reference to standard specifications of any technical society, organization, or association, or to codes of local, state or federal authorities, shall mean the latest standard, code, specification, or tentative specification adopted and**

published at the date of bid issuance, unless specifically stated otherwise.

§ 1.2.5 Any materials, products, equipment or systems that are not broadly recognized as normal, proven, industry-standard materials, practices, systems or components shall not be used on the Project unless specifically reviewed and approved by Owner in writing.

§ 1.2.6 The Contractor shall notify the Architect in writing of any inconsistency found between the Specifications and Drawings. The Architect will then advise the Contractor whether the Specifications will control.

§ 1.2.7 The terms "this Contractor," "furnished under other Sections," "included as part of other Sections," "related work in other Sections," or similar description of segregation shall not be interpreted to limit the responsibility of any particular party involved in the work. The limitations of any subcontractor's work shall rest solely upon the agreement between the Contractor and the subcontractor, regardless of where the work is called for in the Contract Documents.

§ 1.2.8 Omissions in the Contract Documents of such words and phrases as "the Contractor shall," "shall consist of," "as indicated on the Drawings," "in accordance with," "shall," "and," "the," etc., are intentional. Such words and phrases shall be supplied by inference.

§ 1.2.9 The term "product" shall be understood to mean materials, systems, and equipment.

§ 1.2.10 The term "provide" shall be understood to mean "provide complete in place;" that is, "furnish and install."

§ 1.2.11 Whenever the words "necessary," "proper," or words of like effect are used in the Contract Documents with respect to the extent, conduct, or character of work specified, they shall mean that the said work shall be carried to the extent, must be conducted in a manner, or be of a character which is "necessary" or "proper" under the circumstances in the opinion of the Architect, and the Architect's judgment in such matters shall be considered final.

§ 1.2.12 Whenever the words "as required," "as directed," "as permitted," and words of like effect are used in the Contract Documents, it is understood that the requirements, direction, or permission of the Architect are intended, unless otherwise stated; similarly, the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," "acceptable to," or "satisfactory to" the Architect, unless otherwise stated.

§ 1.2.13 Should discrepancies appear among Contract Documents Contractor shall request interpretation in writing before proceeding with the Work. If Contractor fails to make such request, no excuse will thereafter be entertained for failure to carry out Work in satisfactory manner. Should conflict occur in or between drawings and specifications, Contractor is deemed to have included the more expensive way of doing work in Contractor's Bid unless Contractor shall have asked for and obtained written decision before submission of Contractor's Bid Proposal as to which method or materials will be required.

§ 1.2.14 Where the words "KCATA" or "Owners" or "the Authority" is used in these documents reference is made to the Kansas City Area Transportation Authority.

§ 1.2.15 Where the words "Project Manual" or "Bid document" or "Contract Document" are used in the Project Manual, synonymous reference is made to the same instrument including any associated drawings or addenda issued prior to receipt of bids.

§ 1.2.16 Where the words "Architect" or "Engineer" are used in the documents the words are interchangeable as appropriate meaning a State of Missouri registered professional licensed to design unrestricted public and private facilities. In addition, "Architect" or "Engineer" may also mean KCATA Project Manager or designee to the extent applicable for the specific project that is the subject of this Agreement.

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§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

...

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements that affect its ability to pay Contractor without prior notice to the Contractor.

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§ 2.3.4 ~~The~~ If available and requested by Contractor, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

...

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The rights stated in this provision are not a limitation of any rights of the Owner expressed in the Contract Documents, or as provided in law or equity.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. ~~Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.~~

#### § 2.6 Owner's Right to Reject Work

The Owner has the right to reject any work that is defective or does not comply with the Contract Documents. If work is rejected it will be remedied by the Contractor at no cost to Owner.

#### § 2.7 Architect's Compensation for Services to Remedy Defective Work

When additional services of the Architect are required because of defective Work, negligent, failure, deficiencies, or default by the Contractor, the Architect's compensation for such services shall be based on Architect's invoice to the Owner. The invoice, when approved by the Owner, along with other costs, damages, and liabilities incurred by the Owner or the Architect, shall be paid by Contractor and shall reduce the Contract Sum, by Change Order, or other appropriate means to compensate the Owner for its damages, including Architect's Additional Services.

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§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require. If the Contractor performs any work when it involves a recognized nonconformity in the Contract Documents without such prior notice to Architect or Owner, the Contractor shall thereby assume responsibility for performance and bear the attributable cost for the correction.

...

§ 3.2.5 The Contractor shall do no Work without Drawings, Specifications or written instructions or interpretations.

§ 3.2.6 The Contractor's notices or reports to the Architect of errors, inconsistencies, or omissions shall be submitted in writing.

§ 3.2.7 Contractor questions regarding errors, format, inconsistencies, omissions, or interpretations of the Contract Documents shall be submitted in writing to the Architect and in a consistent format, referred to as a "Request for Information," numbered sequentially according to submission and dated.

§ 3.2.8 The Architect shall respond to written notices, reports, or Requests for Information in a timely fashion. The Contractor hereby acknowledges that (1) a timely response may require consultation and coordination with consultants, and preparation of supplementary information or drawings and (2) no extension of Contract Time will be authorized because of failure to notify Architect sufficiently in advance of the Work to permit his timely review and response.

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures. procedures but shall not proceed with that portion of the Work without further written instructions from the Architect or Owner.

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§ 3.3.4 The Contractor, all Subcontractors, and delivery personnel associated with performing the Work of the Contract shall conduct themselves in accordance with all applicable Owner policies while on the job site or any Owner property. Applicable policies may include, but are not limited to, tobacco, drugs, language, weapons, and sexual harassment. Failure of a person to comply will be a cause for his or her immediate dismissal from the project.

...

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

...

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.



§ 3.5.2 Contractor shall describe its policy or warranty in writing regarding both workmanship and material as it applies to the Work, along with the method of adjustment. Contractor shall assume responsibility and warrant for workmanship and materials whether the same are made by the Contractor or Subcontractor or purchased from an outside source.

§ 3.5.3 Bidder warrants workmanship and materials for a period of two (2) years from the date a "Notice of Substantial Completion of Work" is issued.

§ 3.5.4 At the Owner's option, the Contractor shall provide a two (2) year maintenance bond which becomes effective from the date of Substantial Completion.

§ 3.5.5 If Contractor fails to replace, correct or repair Work which has failed because of faulty material or workmanship during the two (2) year warranty period; KCATA may replace, correct and repair subject work at KCATA's expense and KCATA will seek recovery from Contractor's surety under maintenance Bond. In the event, the KCATA seeks payment against Contractor's maintenance Bond for Contractor's failure to replace, correct or repair subject work, Contractor agrees and will fully cooperate with KCATA to recover all its expenses related to the replacement, correction or repair subject work to the KCATA's satisfaction. If KCATA is the prevailing party in any subsequent legal action to recover costs, Contractor agrees to pay, the cost of the work and reasonable administrative fees plus legal expenses.

§ 3.5.5 To the extent necessary, the Contractor shall assign to the Owner (at the time of final completion of the Work) any and all manufacturer's warranties relating to the Work and further agrees to preserve all such manufacturer's warranties.

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If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15. Any claim not timely submitted by the Contractor is waived.

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§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

...

§ 3.10.1 Unless otherwise part of the Contract Documents, the Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project, updated monthly to reflect the actual conditions of progress of the Project and, in the event of delays, shall provide the Owner an affirmative plan designed to correct the delay. In no event shall any progress update constitute an adjustment in the Contract Time period.

...

§ 3.10.4 In the event that the Owner determines that the performance of the Work has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction. The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with the performance of such corrective measures for delays caused by the errors or omissions of the Contractor, subcontractors, or materialmen.

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The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. Further, the Contractor shall use best efforts to minimize any interference with the occupancy or use of any areas of buildings adjacent to or near to the site of the Work.

...

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor. Owner may offset costs incurred herein through payment applications when Contractor fails to timely reimburse Owner.

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**§ 3.17.1 OWNERSHIP, IDENTIFICATION, AND CONFIDENTIALITY OF WORK**

- .1 All reports, programs, documentation, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared, for the services to be performed by Contractor shall be and are the property of KCATA and shall be identified in an appropriate manner by a title containing KCATA's name and address.
- .2 KCATA shall be entitled access to and copies of these materials during the progress of the work.
- .3 Any such material remaining in the possession or under the control of the Contractor or in the possession or under the control of a subcontractor upon completion or termination of the work, and for which KCATA has reimbursed the contractor, shall be immediately delivered to KCATA. If any materials are lost, damaged, or destroyed before final delivery to KCATA, the Contractor shall replace them at its own expense, and the Contractor assumes all risks of loss, damage or destruction of or to such materials.
- .4 The Contractor may retain a copy of all materials produced under this Agreement for its own internal use.
- .5 Any KCATA materials to which the Contractor has access or materials prepared by the Contractor shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees, and agents of the Contractor as necessary to accomplish the Scope of Services set forth in this Agreement.
- .6 Access to or copies of any reports, information, data, etc., available to or prepared or assembled by the Contractor under this Agreement shall not be made available to any third party by the Contractor without the prior written consent of KCATA.



- .7 Each tangible product resulting from work performed under this Agreement shall be labeled with information stating that the project has been financed with federal assistance provided by the U.S. Department of Transportation, Federal Transit Administration.

### **§ 3.17.2 PATENTS AND RIGHTS IN DATA AND COPYRIGHTS**

#### **.1 Rights in Data**

- .1 The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media such as drawings or photographs; test in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts, and information retained in computer memory. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

- .2 The following restrictions apply to all subject data first produced in the performance of this Agreement:

- .1 Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part or in any manner or form, nor may Contractor authorize others to do so, without the written consent of KCATA may have either released or approved the release of such data to the public.

- .2 In accordance with 2 C.F.R. part 200, Appendix II (F) and 37 C.F.R. part 401, Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "federal government purposes."

- .1 Any subject data developed under this Agreement, where or not Contractor or KCATA registered the copyright has been obtained; and

- .2 Any rights or copyright purchased by KCATA or the Contractor using federal assistance in whole or in part provided by FTA.

As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the federal government.

- .3 When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, Contractor performing experimental, developmental, or research work, agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under this Contract shall become subject data as defined previously and shall be delivered as the Federal Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs for the KCATA or Contractor's use whose costs are financed in whole or part with Federal assistance provided by FTA for transportation capital projects.

- .4 Unless prohibited by state law, Contractor agrees to indemnify, save, and hold harmless KCATA and the Federal Government, its commissioners, officers, agents, and employees

acting within the scope of their official duties (the "Indemnified Person") against any liability, including costs and expenses, resulting from any claim against Indemnified Person alleging misappropriation or infringement of intellectual property or proprietary rights, copyrights, or rights of privacy of a third party, arising out of the publication, translation, reproduction, delivery, use or disposition of any data or Work furnished under this Agreement. Contractor shall not be required to indemnify and Indemnified Person for any such liability arising out of the wrongful act of such Indemnified Person.

- .5 Nothing contained in this Section of rights in subject data shall imply a license to the KCATA or to the Federal Government under any Contractor patent of be construed as affecting the scope of any license or other right granted to the Federal Government under any Contractor patent.
- .6 Data that is developed by the KCATA or Contractor under this Agreement and financed entirely without using federal assistance provided by the Federal Government that has been incorporated into work required by this Agreement is exempt from the requirements of subsections (b), (c), and (d) of this Part (2) of this Section, provided that the KCATA or Contractor identifies that data in writing at the time of delivery of the contract work.
- .7 Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work funded in whole or in part with federal assistance.

**.2 Patent Rights. If any invention, improvement, or discovery of the Contractor is conceived or first actually reduced to practice in the course of work under this Agreement, and that intervention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify KCATA immediately and provide a detailed report, who in turn shall ultimately notify the FTA. Unless the Federal Government later makes a contrary determination in writing, and irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, non-profit organizations, institution of higher education, individual), the KCATA and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made but Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 and 35 U.S.C. 2000 et seq.**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions property, including consequential damages, caused in whole or in part by any act or omission of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' 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 Agreement, Contractor shall promptly notify KCATA of such suit.

## ARTICLE 4 — ARCHITECT

§ 3.18.3 If any action at law or suit in equity is instituted by any third party against KCATA arising out of or resulting from the acts of Contractor in performing work under this Agreement, and if Contractor has failed to provide insurance coverage to KCATA against such action as required herein, 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. Contractor will be bound to indemnify KCATA for the proposed settlement amount unless within 15 days of the notice, Contractor objects in writing. If the parties are unable to resolve Contractor's objections, KCATA will not be precluded from settling any claim, but Contractor will not be precluded from challenging its liability and the amount of KCATA's payment in any claim by KCATA and Contractor for indemnity. KCATA shall permit Contractor to participate in the defense of any such action or suit through counsel chosen by the Contractor, provided that the 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.

§ 3.18.4 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT/ENGINEER

§ 4.1.1 The Architect-Owner may retain an Architect/Engineer lawfully licensed to practice architecture or engineering or an entity lawfully practicing architecture or engineering in the jurisdiction where the Project is located. The Architect/Engineer is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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§ 4.1.3 If the employment of the Architect/Engineer is terminated, the Owner shall employ a successor architect/engineer as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect/engineer.

§ 4.2.1 The Architect-~~Architect/Engineer~~ will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the ~~Architect-Architect/Engineer~~ issues the final Certificate for Payment. The ~~Architect-Architect/Engineer~~ will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The ~~Architect-Architect/Engineer~~ will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the ~~Architect-Architect/Engineer~~ will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The ~~Architect-Architect/Engineer~~ will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the ~~Architect-Architect/Engineer~~ will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The ~~Architect-Architect/Engineer~~ will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The ~~Architect-Architect/Engineer~~ will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect/engineer about matters arising out of or relating to the Contract. Communications by and with the Architect/engineer's consultants shall be through the Architect/engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols; separate contractors shall be through the Owner. Architect/Engineer shall keep Owner informed of all relevant project information and communications that may potentially impact the project scope, cost and schedule in any way.

§ 4.2.5 Based on the ~~Architect's~~ Architect/Engineer's evaluations of the Contractor's Applications for Payment, the ~~Architect~~ Architect/Engineer will review and certify-recommend the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The ~~Architect~~ Architect/Engineer has authority to reject Work that does not conform to the Contract Documents. Whenever the ~~Architect~~ Architect/Engineer considers it necessary or advisable, the ~~Architect~~ Architect/Engineer will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the ~~Architect~~ Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the ~~Architect~~ Architect/Engineer to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The ~~Architect~~ Architect/Engineer will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The ~~Architect's~~ Architect/Engineer's action will be taken in accordance with the submittal schedule approved by the ~~Architect~~ Architect/Engineer or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the ~~Architect's~~ Architect/Engineer's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The ~~Architect's~~ Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The ~~Architect's~~ Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect/Engineer shall notify and obtain approval from the Owner of any shop drawing edits that may potentially impact the project scope, cost and schedule within 3 business days of the Architect/Engineer becoming aware of the need of a potential edit to the shop drawings.

§ 4.2.8 The ~~Architect~~ Architect/Engineer will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The ~~Architect~~ Architect/Engineer will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4. The Architect/engineer shall notify and obtain approval from the Owner of any proposed minor changes that may potentially impact the project scope, cost and schedule within three (3) business days of the Architect/engineer becoming aware of the need of a potential change in the work.

§ 4.2.9 The ~~Architect~~ Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents



required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and ~~Architect~~ Architect/Engineer agree, the ~~Architect~~ Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The ~~Architect~~ Architect/Engineer with direct input from Owner will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The ~~Architect's~~ Architect/Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the ~~Architect~~ Architect/Engineer will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. ~~When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.~~

§ 4.2.13 The ~~Architect's~~ Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The ~~Architect~~ Architect/Engineer will review and respond to requests for information about the Contract Documents. The ~~Architect's~~ Architect/Engineer's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the ~~Architect~~ Architect/Engineer will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including bidding requirements, the Contractor, shall furnish in writing to the Owner a list of all Subcontractors and major suppliers name, contact information and scope of work to the Contracting Officer (KCATA Procurement Staff) the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) design) within two (2) business days of receipt of Notice of Intent to Award. The Contracting Officer may reply within fourteen (14) business days to the Contractor in writing stating (1) whether the Owner or the Contracting Officer has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection that the Contracting Officer requires additional time for review.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of KCATA. The only subcontractors approved for this Contract, if any, are listed on an Appendix to this Contract. Any substitutions or additions of subcontractors must have the prior written approval of KCATA in its sole discretion. Contractor shall be solely responsible for reimbursing any subcontractors or service firms, and Owner shall have no obligation to them, provided KCATA has accepted and reimbursed Contractor for the subcontractors' or service firms' work. If Contractor fails to reimburse subcontractors or service firms after receiving reimbursement from KCATA for the subcontractors' or service firms' work, KCATA reserves the right to directly reimburse the subcontractor or service firm and withhold such payments directly from any future payments to Contractor, any retainage held by KCATA on this Contract, or draw down on any letter of credit provided in lieu of retainage under this Contract. KCATA requires lien waivers from all subcontractors before reimbursement is made to the Contractor. A breakdown of all payments to subcontractors shall be included with Contractor's payment requests submitted to KCATA.

**§ 5.2.2.1 Prompt Payment. The Contractor shall establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor is required to pay its DBE and non-DBE subcontractors performing work related to this Contract for satisfactory performance of that work in accordance with the timing set forth in any applicable laws or no later than thirty (30) days, whichever is less,**

after the Contractor's receipt of payment for that work from the KCATA. Any delay of payment from the above-referenced time frame may occur only for good cause following the written approval of KCATA. A breakdown of all payments to DBE and non-DBE subcontractors shall be included with the Contractor's payment requested submitted to KCATA on the form titled, "Subcontractor Monthly Utilization Report."

§ 5.2.2.2 Prompt Payment Retainage. If retainage is withheld from subcontractors, Contractor is required to return any retainage payment to those DBE and non-DBE subcontractors with the timing set forth in any applicable laws or no later than thirty (30) days, whichever is less, from receipt of the retainage payment related to the subcontractor's work. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCATA.

§ 5.2.2.3 A breakdown of all payments to DBE and non-DBE subcontractors and major suppliers (project materials costing more than \$10,000 or as otherwise approved by Owner) shall be included with Contractor's payment requests submitted to KCATA.

§ 5.2.2.4 Subcontract Provisions. Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete Contract. 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 Agreement:
  - Bonding
  - Breach of Contract; Remedies
  - Civil Rights
    - A. Nondiscrimination
    - B. Equal Employment Opportunity
    - C. Americans with Disabilities Act
    - D. ADA Access Requirements
  - Debarment and Suspension
  - Disadvantaged Business Enterprise (DBE)
  - Disclaimer of Federal Government Obligations or Liability
  - Dispute Resolution
  - Employee Protections
    - A. Construction Employee Protections
    - B. Employee Protections – General
  - Employee Eligibility Verification
  - Environmental
    - A. Clean Air
    - B. Recovered Materials/Recycled Products
    - C. Clean Water
    - D. Energy Conservation
  - Federal Changes
  - Federal Tax Liability and Convictions
  - Fraud and False or Fraudulent Statements or Related Acts
  - Governing Law; Choice of Judicial Forum
  - Incorporation of Federal Transit Administration Terms
  - Lobbying Restrictions
  - National Intelligent Transportation Systems Architecture & Standards
  - Ownership, Identification, and Confidentiality of Work
  - Patents and Rights in Data and Copyrights
  - Privacy Act Requirements

Prohibited Interests  
Prohibited Weapons and Materials  
Prohibition on Restricted Telecommunications and Surveillance Equipment  
Record Retention & Access  
Seat Belt Use Policy  
Seismic Safety  
Subcontractors  
Termination  
Texting While Driving and Distracted Driving  
U.S. Product and Service Preference  
    A. Buy America  
    B. Cargo preference  
    C. Fly America

- .4 The Contractor will take such action with respect to any subcontractor or procurements as KCATA or the U.S. Department of Transportation may direct as means of enforcing such provisions.

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§ 5.2.5 The Contractor at Owner's request shall timely provide at their cost any and all subcontracts associated with the project. The Contractor, as a material condition of this contract at Owner's request timely make any subcontract modifications the Owner deems appropriate. Time is of the essence for compliance with the provision; in no event shall any requested change take more than 30 days to complete by the Contractor and subcontractor(s). As determined by the Owner, failure of the Contractor to complete any requested subcontract change(s) shall result in the contract price being adjusted and decreased by the Owner in an amount equal to the total amount of federal dollars received by the Owner for the project, which could exceed one hundred percent of the total contract value or price, which also includes all change orders.

...

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.1.4 The Contractor shall assume all responsibility and costs in complying with federal, state, and local regulations for equal employment opportunity, anti-discrimination, safety, and other regulations. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, ethnic group, national origin, age, or sexual orientation. The Contractor shall take affirmative action to ensure that applicants are employed, and that applicants are treated during employment, without regard to that applicant's race, religion, color, sex, ethnic group, national origin, age, or sexual orientation. Such action shall include, but not limited to, employment, upgrading, demotion, transfer, recruitment, advertisement, layoff termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the requirements of these non-discrimination provisions.

§ 6.1.5 The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, ethnic group, national origin, age, or sexual orientation.

§ 6.1.6 The Contractor shall include all of Sections 6.1.4 through 6.1.5 in every subcontract or purchase order and shall require each Subcontractor and material and equipment supplier to include Sections 6.1.4 through 6.1.5 in each of their subcontracts and purchase orders, so that such provisions will be binding upon each Subcontractor, Sub-Subcontractor, and material and equipment supplier.

...

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent. Work, except as to defects not then reasonably discoverable.

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§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement approval by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone. The parties agree any dispute over a Construction Change Directive will not delay the Project. Contractor shall perform the work as directed in the Construction Change Directive. The parties will work in good faith reach a resolution of any disputes arising from the Construction Change Directive. If the disputes cannot be resolved both parties reserve the right pursue a claim under Section 15.

...

§ 7.1.4 The bonds shall be automatically increased in amount and extended in time to cover full and faithful performance of the Contract in the event of Change Orders, regardless of the amount of time or money involved. It is the Contractor's responsibility to notify his Surety of any changes affecting the general scope of work or change in the Contract price or time.

§ 7.1.5 At any time during the continuance of the contract that the Surety on any bond becomes unacceptable to Owner for financial reasons, the Owner has the right to require additional and sufficient sureties which Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notices to do so.

...

§ 7.2.2 For any work for which unit prices have not been established, the Contractor shall prepare and submit for approval a proposal covering the changes required in the Work. The proposal shall cover all cost as defined, broken down as to labor, material, tool rental, and subcontracted work. To these items, if change order is for additional work, shall be added a percentage of the costs of labor, material, and equipment as the Contractor's fee for overhead and profit. Also included shall be a percent of value of subcontracted work. If the change order is for a decreased amount of work, credit to the KCATA shall be one hundred percent (100%) of the accrued savings.

§ 7.2.3 If the change order is for a decrease in the amount of work, credit to the KCATA shall include overhead and direct costs, unless the Contractor's fee for overhead and profit are fixed by competitive bid on the Bid Response Form.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing



the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.5** If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

**§ 7.3.6** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.4** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices may be equitably adjusted.

**§ 7.3.5** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.6** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be incorporated into a subsequent Change Order.

**§ 7.3.7** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order. If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

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The Architect ~~may~~ has authority order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

**§ 7.4.2** Architect-initiated clarifications will be issued in, Architect's Supplemental Instructions (ASI). The Contractor, within 10 days of date of issuance of ASI, shall respond in either of the following ways:

- .1 Accept the ASI as issued by signing, dating, and returning two copies.
- .2 State in writing that the ASI is not acceptable because of a need to change the Contract Sum and/or Contract Time and issue a Contractor Proposal outlining changes.

**§ 7.4.3** If neither response is received within 10 days, the conditions of the ASI shall become binding on all parties and accepted into the Contract Documents, and the Contractor shall waive his right to file a claim for an increase in Contract Sum and/or Contract Time.

...

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement. If the project start date is delayed due to permitting delays, the contract term shall be extended accordingly. The Contractor shall not be entitled to any additional costs for the delay. The Contractor shall pay for all building construction permits, including minor (e.g., grading permit, traffic control permit, street restoration permit) permit fees if required by the municipality.

...

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

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**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. Any claim for additional time must be submitted within seven (7) days of the event giving rise to the claim. Any claim not timely submitted is waived.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15. Contractor agrees that any delay period of three (3) months or less is not compensable and therefore waives any such claims. Claims made for delays lasting more than three (3) months at a time will be negotiated.

...

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Owner and Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Owner and Architect and supported by such data to substantiate its

accuracy as the Owner or Architect may require, and unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

...

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The Form of Application for Payment shall be AIA Document G-702, 'Application and Certification for Payment,' supported by AIA Document G-702A, 'Continuation Sheet.' The Contractor shall submit "Certified Payroll Report" and partial lien waivers with each application for payment in a form acceptable to Owner.

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**§ 9.3.4** The full Contract retainage five (5%) may be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to the Architect and the KCATA's Project Manager, or if the Surety withholds its consent, or for other good and sufficient reasons.

**§ 9.3.5** The Contractor (and the Contractor's surety) shall be liable for and shall pay to the KCATA the liquidated damage sums stipulated and fixed herein, according to the agreed liquidated damage sums for each calendar day the Work remains uncompleted after expiration of the Contract time.

**§ 9.3.6** Applications for payment shall be submitted directly to KCATA's Procurement representative identified in this agreement. All invoices shall be numbered, dated, and contain full descriptive information of products, equipment, materials, work, or services furnished. All invoices and correspondence shall reference KCATA's Purchase Order number or Contract number. Separate invoices shall be submitted for each purchase order or work (task) order.

**§ 9.3.7** Contractors utilizing subcontractors shall provide a detailed breakout by prime, majority subcontractor(s) and/or DBE Subcontractor(s) on each invoice submitted for payment. Invoice shall contain a summary section which shows current payment and cumulative. Contractor shall submit this information on the "Subcontractor Monthly Utilization Report" form. Contractor is required to pay its DBE and non-DBE subcontractors performing work related to this Contract for satisfactory performance of that work in accordance with the timing set forth in any applicable laws or no later than thirty days, whichever is less, after the Contractor's receipt of payment for that work from the KCATA. If retainage is withheld from subcontractors, Contractor is required to return any retainage payment to this DBE and non-DBE subcontractors with the timing set forth in any applicable laws or no later than 30 days, whichever is less from receipt of the retainage payment related to the subcontractor's work. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of KCATA. KCATA may perform random audits and contact DBE subcontractors to confirm the reported participation. Failure to meet the contracted goal without documented evidence of a good faith effort may result in the termination of this Agreement.

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- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; Documents;
- .8 unsatisfactory prosecution of the Work by the Contractor.
- .9 failure to submit Certified Payroll Receipts, partial lien waivers and other documents as may be required by the Architect on behalf of the KCATA's Project Manager.

**§ 9.5.2** When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15. In addition, the Owner may withhold or cause to be withheld from the Contractor any amounts reasonably necessary a) to protect Owner from damages caused

by Contractor b) to pay the laborers or mechanics, including apprentices and trainees, employed by the Contractor or Subcontractor on the Work the full amount of wages required by the Contract, and c) to satisfy any liability of any Contractor for delay damages and/or liquidated damages.

**§ 9.5.3** When the reasons for withholding certification are removed, certification will be made for amounts previously withheld. If the Contractor or any Subcontractor fails to pay any laborer or mechanic, including apprentices and trainees, employed or working on the site of the Work, all or part of the wages required by the Contract, the Owner may, after written notice to the prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

**§ 9.5.4** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment. **Right to Offset; Payments Under Protest.**

1. The Owner, without waiver or limitation of any rights, may deduct from any amounts due Contractor in connection with this contract, or any other Agreement between Contractor and Owner, any amounts owed by Contractor to Owner, including amounts owed by Contractor, as provided above, and/or to ensure Contractor's obligation to indemnify the Owner against third party claims arising out of Contractor's performance of Work under this Agreement.
2. If any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other party, under the provisions of this Agreement, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the party of said party to institute permitted actions for the recovery of such protested sum, and if it shall be finally determined that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Agreement, together with interest thereon at 1% per annum if paid to the other party. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the cost thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and there shall survive the right on the part of said party to institute permitted actions for the recovery of the costs of such work, and if it shall be adjudged that there was no legal obligation on the party of said party to perform the same or any part thereof, said party shall be entitled to recover the cost of such work or the costs of so much thereof as said party was not legally required to perform under the provisions of this Agreement, together with interest thereon at 1% per annum.

**§ 9.5.5** When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.6** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

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**§ 9.6.5** The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

**§ 9.6.5** Immediately, upon receipt of each progress payment and upon receipt of the final payment as provided in Article 9 of these General Conditions, the Contractor shall provide Owner with a written statement, under oath, certifying that the Contractor has properly and fully paid Subcontractors and material and equipment suppliers the sums due and owing the Subcontractors as evidenced by the Application for Payment, together with a lien waiver



from Contractor and all such Subcontractors and Suppliers. If the Contractor fails to furnish such evidence, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law. Contractor shall not be entitled to receive any further payments pursuant to the Contract unless and until Contractor is in compliance with the terms of this Section.

§ 9.6.6 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within ~~seven~~thirty (30) days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute ~~resolution~~resolution (subject to Contractor's compliance with the provisions of the Contract), then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

...

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete each and every component of the Work as itemized in the Schedule of Values, is at least 95% complete and operational or may be occupied in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, including the issuance of a full certificate of occupancy. KCATA relies on Contractor's experience and knowledge to safely install/build the equipment or structure consistent with manufacturer's instruction unless otherwise unsafe. The Contractor is responsible for testing the equipment and confirm it is operationally safe and consistent with intended use prior to acceptance and substantial completion.

...

§ 9.8.5 The Contractor shall submit a request for Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. the Contractor in such Certificate. Upon Substantial Completion, all retainage shall be deemed a disputed payment until final acceptance, in accordance with RSMo 436.300, et seq. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

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If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ~~21~~2 business days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the ~~condition~~condition in writing. Failure to notify the Owner and/or proceeding with Work in the affected area after recognizing hazardous materials shall constitute a negligent act on the part or parties having actual knowledge of the existence of hazardous materials and shall indemnify the KCATA from litigation and acts, penalties, fines and restrictions as may be imposed by the federal government or the State of Missouri.

...

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. ~~The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

...

**§ 10.3.6** ~~If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.~~

...

**§ 11.1.1** ~~The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor and KCATA from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:~~

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

**§ 11.1.2** The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified below or required by law, whichever coverage is greater, and shall include blanket contractual liability insurance under the Liability and Indemnification sections in this Agreement. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. The KCATA, its commissioners, officers and employees shall be named as additional insureds on all policies, except Professional Liability and Workers Compensations policies.

**.1 Workers Compensation:**

- a. State: Statutory Kansas or Missouri
- b. Applicable Federal (i.e. Longshoreman's): Statutory

c. Employer's Liability:

Bodily Injury by Accident \$500,000 each incident  
Bodily Injury by Disease: \$500,000 each employee  
Bodily Injury by Disease: \$500,000 policy limit

The Contractor and any subcontractor shall maintain adequate worker's compensation insurance in conformance with the laws of the State of Missouri and/or Federal laws where applicable to cover all employees during performance of services, or during delivery, installation, assembly or related services in conjunction with this Agreement. The Contractor and any subcontractor further agree to hold KCATA harmless from any costs due to accident or other liabilities that may be subject to the Worker's Compensation Law.

**.2 Commercial General Liability (including Premises-Operations; Independent Contractor's Protective; Products and Completed Operation; Broad Form Property Damage, Broad Form CGL; Blanket Contractual; X, C, and U).**

a. Bodily Injury:

Each Occurrence \$1,000,000  
Annual Aggregate \$2,000,000

b. Property Damage:

Each Occurrence \$1,000,000  
Annual Aggregate \$2,000,000

c. Personal Injury:

Annual Aggregate \$2,000,000

d. Products Liability and Completed Operations Insurance to be maintained for one (1) year after final payment.

e. Property Damage Liability Insurance shall include X, C, or U coverage if exposure exists.

f. Broad Form Property Damage shall include Completed Blanket Operations.

**.3 Umbrella/Excess Liability Policy \$5,000,000.**

**.4 Blanket Contractual Liability:**

a. Bodily Injury:

Each Occurrence \$1,000,000  
Annual Aggregate \$1,000,000

b. Property Damage:

Each Occurrence \$1,000,000  
Annual Aggregate \$2,000,000

**.5 Comprehensive Automobile Liability (including owned, hired, and non-owned vehicles):**

a. Bodily Injury:

Each Occurrence \$1,000,000  
Annual Aggregate \$1,000,000

b. Property Damage \$1,000,000 Each Occurrence

Contractor shall procure and maintain at all times during the term of this Agreement Commercial General Liability insurance for liability arising out of the operations of the Contractor and any



subcontractor. The policy(ies) shall include Comprehensive Automobile Liability coverage for all vehicles, licensed or unlicensed, on or off 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 Agreement. The policy(ies) shall include coverage for the Contractor's and its subcontractors' products and completed operations. The Contractor shall be responsible for all premiums associated with the requested policy(ies) and endorsements. The policy(ies) shall include coverage for the Contractor's and Subcontractors' products and completed operations for the duration of warranty terms or at least two (2) years following the project completion, longer, or as otherwise noted.

The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) coverage for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) coverage for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

<b>.6</b>	<b>Professional Liability Insurance:</b>	<u>\$1,000,000.00 Each Occurrence</u>
		<u>\$5,000,000.00 Annual Aggregate</u>

Where applicable, Contractor shall procure and maintain professional liability insurance covering damages caused by any error, omission or any negligent acts of the Contractor or its employees with regard to Contractor's performance and arising from the work performed under the Purchase Order or this Agreement. Insurance for negligent acts, errors, or omissions committed or alleged to have been committed by Contractor and professional subcontractors shall be provided.

The Contractor will maintain the above Professional Liability coverage and limits for a minimum of two years beyond the expiration date of this Agreement and any extension thereof. In lieu of the foregoing, KCATA will accept a certified copy of the policy with an endorsement extending the discovery period for two years and that KCATA will receive written notice within thirty days of any change in the extended discovery period.

In lieu of providing professional liability coverage for professional subcontractors, Contractor may cause professional subcontractors to independently comply with this section.

<b>.7</b>	<b>Pollution Liability</b>	<u>\$1,000,000 Each Occurrence</u>
		<u>\$5,000,000 Annual Aggregate</u>

Where applicable, the Contractor shall obtain and keep in effect during the term of the KCATA Purchase Order or this Agreement, Pollution Liability Insurance including clean up and remediation costs arising out of the work or services to be performed under the purchase order or this Agreement. 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.

<b>.8</b>	<u>The Insurer(s) for Contractor 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.</u>
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<b>.9</b>	<b>Cyber Liability Policy</b>	<u>\$1,000,000 Each Occurrence</u>
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**§ 11.1.3 Certificates of Insurance/Endorsements.** The Contractor shall be required to furnish certificates of insurance prior to execution of the contract. The insurance should be written with companies acceptable to the 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 Self Insurance Fund (BASIF).

<b>.1</b>	<b><u>The Certificate and the policies shall state that the Kansas City Area Transportation Authority, its commissioners, officers, and employees are named as additional</u></b>
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insureds on the policies covered by the certificate, except Professional Liability and Workers Compensation. The KCATA will be given a 30-day notice prior to any decrease in limits or cancellation of any policy covered by the certificate of insurance.

.2 In no event shall the total limit(s) of liability available for any one occurrence or accident be less than the amount shown above.

.3 An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required in this Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness. The certificate of insurance shall specifically state that blanket contractual liability is applicable. Explosion, collapse, and underground coverage shall be included when the exposure exists.

.4 In addition to the above certificates required herein, the Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits. Pertaining to the "Other Insurance" clause in the Contractor's policy - the Insurance Certificate shall state that **"any coverage afforded the certificate holder as an additional insured shall apply as primary and not excess or contributing to any insurance issued in the name of the certificate holder."**

**§ 11.1.4 Policies.** The Contractor shall be required to furnish to KCATA copies of required insurance policies and relevant additional insured endorsements of insurance upon request. If copies of the required insurance policies or endorsements are then 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 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."***

**§ 11.1.5** If the Owner is damaged by the failure of the Contractor to maintain the required insurance and to provide the required certificates to Owner, the Contractor shall bear all reasonable costs properly attributable thereto.

**§ 11.1.6** 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 insurer's obligation to pay defense costs under the policies is in addition to, and not part of the liability limits stated in the policies.

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**§ 11.2.1** The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance

companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, be responsible for purchasing and maintaining an Owner's Excess liability insurance.

**§ 11.2.2 Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

**§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**PROPERTY INSURANCE

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property. Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

#### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

#### **§11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

**§ 11.3.1.1** Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

**§ 11.3.1.2** If this insurance is written with the stipulated amounts deductible under the terms of the policy, the Contractor shall pay the difference attributable to deductions in any payments made by the insurance carrier on claims paid by this insurance.

**§ 11.3.1.3** This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

**§ 11.3.1.4** Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### **§ 11.3.2 BOILER AND MACHINERY INSURANCE**

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

#### **§ 11.3.4 WAIVERS OF SUBROGATION – NOT USED**

**§ 11.3.5** A loss insured under the Contractor's property insurance shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear, subject to requirements of



any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.6 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.7 The Contractor as fiduciary shall have the power to adjunct and settle a loss with insurers and any of the parties interested.

#### **§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

§ 11.4.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as well as statutory and a two (2) year Maintenance Bond. Bonds may be obtained through the Contractor's usual source, and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum unless otherwise stated in the INVITATION FOR BIDS (IFB). A cash deposit, certified check, irrevocable letter of credit (LOC), or other negotiable instrument may be accepted by KCATA in lieu of a payment bond. The form of any substitution in lieu of a payment and performance bonds must be approved by KCATA. The cash deposit, certified check, irrevocable LOC, or other negotiable instrument accepted in lieu of such bonds must remain valid and in effect for the full term of this Agreement.

§ 11.4.1.1 If used, the LOC shall be irrevocable, unconditional, and issued by an acceptable federally insured financial institution. The LOC must cover the entire period of performance or may be submitted with an initial expiration date, which is a minimum period of one year from the date of issuance, with a provision, which states that the LOC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of performance is completed. The period of performance shall not end until resolution of all claims filed against the payment bond during the one-year period following final payment.

§ 11.4.1.2 The Contractor shall deliver the required bonds to the KCATA not later than seven (7) calendar days following the date of the Notice of Intent to Award. A licensed surety company shall secure the payment and performance bonds and maintenance bond. The payment and performance bonds shall remain valid and in effect for the full term of this Agreement.

§ 11.4.1.3 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

§ 11.4.2 Prior to final payment, the Contractor shall furnish separate maintenance (or guarantee) bonds in form acceptable to KCATA written by the same corporate surety that provides the performance bond for this Agreement. The maintenance bond shall secure the Contractor's obligation to replace or repair defective products, equipment and materials and faulty workmanship for a minimum period of two (2) years after substantial completion and shall be written in an amount equal to one hundred percent (100%) of the Contract Sum, as adjusted (if at all).

§ 11.4.2.1 The effective date of the two (2) year Maintenance Bond is the date of Substantial Completion.

§ 11.4.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

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§ 12.1.1 All work shall be inspected by Owner's representative prior to being covered or installed. If Contractor fails to properly inform Owner's representative prior to covering or installing work, it will be at Owner's discretion to

require the Work to be removed and reinstalled under Owner's inspection and approval. If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within ~~one~~two year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the ~~one-year-two-year~~ period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. After the two-year warranty period, if Owner discovers a recurrence of a problem previously identified during the warranty period, the Owner may require the Contractor to complete the repairs or make the corrections at the Contractor's expense.

§ 12.2.2.2 The ~~one-year-two-year~~ period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 ~~The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~Not used.

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~~The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4. This Agreement shall be deemed to have been made in, and be construed in accordance with the laws of the State of Missouri, except those pertaining to conflicts of laws. ANY ACTION OF LAW, SUIT IN EQUITY, OR OTHER JUDICIAL PROCEEDING TO ENFORCE OR CONSTRU~~THE AGREEMENT, RESPECTING ITS ALLEGED BREACH, SHALL BE INSTITUTED ONLY IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI.

...

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to another public entity or a lender providing construction financing for the Project, if the public entity or the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. The Contractor has an affirmative duty to provide an active, current and valid business address to the Owner where Contractor can receive notices under this contract.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall ~~make arrangements for such tests, inspections, be required to coordinate with Owner's representative such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests,~~

entity. Copies of such test results and inspections shall be filed with the Architect and the KCATA. The Owner will select a testing laboratory and shall bear all costs of test, inspections, and approvals. The Contractor shall give the testing laboratory, the Architect and the KCATA's Project Manager timely notice of when and where tests and inspections are to be made so that the Architect they may be present for such procedures. The Owner shall bear costs of tests, inspections, (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require. All work shall be tested and inspected by Owner's representative prior to being covered or installed. If Contractor fails to properly inform Owner's representative prior to covering or installing work, it will be at Owner's discretion to require the Work to be removed and reinstalled under Owner's inspection and approval.

**§ 13.4.1.1** Pre-contract award inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of 1) Contractor until after bids are received or negotiations concluded; and (2) tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

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### **§ 13.5 Interest**

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

...

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of ~~30~~ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

...

**§ 14.1.2** The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than ~~100~~150 percent of the total number of days scheduled for completion, or ~~120~~180 days in any 365-day period, whichever is less.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, completed, and accepted, including reasonable overhead and profit, and costs incurred by reason of such termination. Contractor shall not be entitled to project profit or overhead costs and expenses for uncompleted work.

**§ 14.1.4** If the Work is stopped for a period of ~~60~~90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

...

**§ 14.2.1** The Owner may terminate the Contract if the Contractor and/or Contractor's right to perform or complete Work if the Contractor:

- .1 repeatedly-refuses or fails to supply enough properly skilled workers or proper materials;

...



- .3 ~~repeatedly~~ disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

...  
§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, ~~and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may,~~ without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

...  
§ 14.2.3 When the Owner terminates the Contract and/or Contractor's right to perform or complete the Work for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

-----  
§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the ~~Contract~~. Contract and/or Contractor's right to perform or complete the Work; provided, that such payment shall not exceed the value of the Work actually completed and materials supplied as of the date of termination, and the Contractor shall not be entitled to anticipated profits or anticipated overhead upon the whole Contract or for other direct, indirect, or consequential damages arising out of or resulting from the Owner's termination.

§ 14.2.5 **Funding Contingency.** If this Agreement 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 this Agreement in accordance with other provisions of this Agreement.

§ 14.2.6 **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.

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§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include ~~profit~~ real costs incurred by Contractor during suspension. No adjustment shall be made to the extent

...  
§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Such termination shall be without prejudice to any Claims which Owner may have against the Contractor.

§ 14.4.1.1 The Owner may, at any time, terminate the Contract if the Owner determines that Owner does not have sufficient funds for the lawful purpose of paying obligations of Owner under the Contract between the Owner and Contractor. The Owner and Contractor acknowledge the provisions and limitations of the Missouri cash-basis law, Mo. Const. Art. 6, §26(a) and RSMo 67.010 et seq., as amended, and agree that the Contract between Owner and Contractor will be deemed void *ab initio*.

...  
§ 14.4.3 In case of such termination for the Owner's convenience, the ~~Owner shall pay the Contractor for Work~~

properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement. Contractor shall be entitled to receive payment for work executed and costs incurred by reason of such termination. No compensation for overhead or profit will be made for work not executed.

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### **§ 15.1.3 Notice of Claims by Contractor**

~~§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. Contractor must be initiated by written notice to Owner and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant Contractor first recognizes the condition giving rise to the Claim, whichever is later. Notice shall include an estimated cost for the claim. Any claim not timely submitted is waived.~~

~~§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.~~

...

If the Contractor wishes to make a Claim for an increase in the Contract Sum, timely notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. Any claim not timely submitted is waived.

...

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. Any claim not timely submitted is waived.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. For conditions of weather or conditions at the site, an average or usual number of inclement days when the Work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.

.1 Time Extensions for Unusually Severe Weather:

.2 Definitions:

.1 Adverse Weather: Atmospheric conditions or the impact thereof at a definite time and place which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent (50%) or more of the Contractor's scheduled workday.

.2 Unusually Severe Weather: Weather which is more severe than the adverse weather anticipated for the season, location, or activity involved.

.3 In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:

.1 The weather experienced at the project site during the Contract period is more severe than the adverse weather anticipated for the project location during any

given month; and

- .2 The unusually severe weather actually caused a delay to the completion of the project. The delay must be beyond the control and without fault or negligence by the Contractor.
- .3 The following schedule of monthly anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

**MONTHLY ANTICIPATED ADVERSE WEATHER DELAY**  
**WORK DAYS BASED ON FIVE (5) DAY WORK WEEK**

January .....	10	May .....	September .....
February .....	8	June .....	October .....
March .....	7	July .....	November .....
April .....	6	August .....	December .....

- .4 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- .5 The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full work days.
- .6 If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying work day delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- .7 The determination that unusually severe weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.
- .8 Full consideration for equivalent fair weather work days shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any work day increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- .9 The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the Date of Substantial Completion shall not be changed as a result of unusually favorable weather.
- .10 In converting work days to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.

- .11 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Architect by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- .12 Any claim for extension of time due to unusually severe weather shall be submitted to the Architect within 15 days of the last day of the month in which the delay occurred. Resolution of any claim shall follow the procedures established by the General Conditions of the Contract for Construction and as prescribed above.
- .13 The Contractor shall include and indicate the monthly anticipated adverse weather days, listed above, in their Progress Schedule.
- .14 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated delays) in their monthly Progress Schedule update.

§ 15.1.6.3 Bid unit prices shall be used for either increases or decreases in pricing of Change Orders. Contract price adjustment by Change Order requires all savings shall accrue one hundred percent (100%) to the KCATA. The Contractor will substantiate all "lump sum" bid prices by presentation of vendors or subcontractors invoices which will be price adjusted by the Contractor's fee for overhead and profit.

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- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work; the Work; and
- .3 the negligent acts of the Contractor or his subcontractors which cause additional expense to the Owner for rental, for loss of use, income, profit, financial business, and representation and for loss of management or employee productivity or of the services of such persons are exempt from this mutual waiver.

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§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution litigation.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1. If a claim has not been resolved after consideration of the foregoing, and of further evidence presented by the parties, or requested by the Architect, the dispute shall be decided by the Owner's Director of Procurement as Initial Decision Maker, who shall reduce this decision to writing and furnish a copy thereof to the Contractor. The decision of the Director of Procurement shall be final and conclusive unless within ten (10) days from the date of receipt of such copy, the Contractor furnishes a written appeal addressed to the KCATA's Senior Vice President Administration/Chief Financial Officer (CFO) with copy to the Director of Procurement, for the determination of such appeals which shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, 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, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Director of Procurement's decision.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law or equity.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines. No action or failure to act by the KCATA shall constitute a waiver of any right or duty afforded any of them under this Agreement, 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.

§ 15.2.9 This clause does not preclude consideration of questions of law in connection with decisions provided for above. On procurement items in which the Federal Transit Administration (FTA) funding is involved, the Contractor shall be aware of protest procedures with the FTA Regional Office.

§ 15.2.10 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.11 Any claim not resolved will be decided by litigation. Venue and jurisdiction for any lawsuit will be the locale of the Project.

## **ARTICLE 16 ADDITIONAL GOVERNMENTAL CONDITIONS**

### **§ 16.1 ACCEPTANCE OF MATERIALS, ETC. – 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 Agreement. KCATA reserves the right and shall be at liberty to inspect all products, equipment or materials and workmanship at any time during the manufacturing process, and shall have the right to reject all materials and workmanship which do not conform with the conditions, contract requirements and specifications; provided, however, that KCATA is under no duty to make such inspection, and no inspection so made shall relieve the Contractor from any obligation to furnish products, equipment or materials and workmanship in accordance with the instructions, contract requirements and specifications.

### **§ 16.2 AGREEMENT IN ENTIRETY**

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

### **§ 16.3 ASSIGNABILITY**

The Contractor shall not assign any interest in this Agreement 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 Agreement, all of the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representative.

### **§ 16.4 AUDIT AND INSPECTION OF RECORDS**

See § 16.41 for the Audit and Inspection of Records Provision

### **§ 16.5 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 "Notification and Communication" regarding the contract document. 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 Agreement.

## **§ 16.6 BREACH OF CONTRACT; REMEDIES**

**§ 16.6.1** If the Contractor shall fail, refuse or neglect to comply with the terms of this Agreement, 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.

**§ 16.6.2** 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 KCATA shall constitute a waiver of any right or duty afforded under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

## **§ 16.7 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.

## **§ 16.8 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 (FTA MA (28) dated February 9, 2021), 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.

## **§ 16.9 CIVIL RIGHTS**

**§ 16.9.1 Non Discrimination** – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the 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.

**§ 16.9.2 Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract.

**§ 16.9.2.1 Race, Creed, Color, National Origin, Disability, Age or Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, *et seq.*; 49 C.F.R. part 21; 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), U.S. Department of Justice (DOJ) 28 C.F.R. §; 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.

- .1 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by an appropriate agency of the Federal Government setting forth the requirements of these nondiscrimination provisions.
- .2 The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, sex, religion, national origin, or age.
- .3 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Owner, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**§ 16.9.2.2 Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S.EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, and U. S. Department of Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F. R. part 90, 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.

**§ 16.9.2.3 Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et eq.*, and the Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**§ 16.9.3 ADA Access Requirements.** In accordance with section 102 of the Americans with Disabilities Act, as amended; 49 C.F.R. part 27; 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.

**§ 16.9.4** The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by an appropriate agency of the Federal Government and by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

**§ 16.9.5** In the event of the Contractor's noncompliance with the Equal Opportunity conditions of this Contract, KCATA shall impose such sanctions as it, or the U.S. Department of Transportation, may determine to be appropriate including, but not limited to withholding of payments to the Contractor under this Contract until the Contractor complies, and/or cancellation, termination, or suspension of the Contract, in whole or in part, and the Contractor may be declared ineligible for further Government contracts of Federally-assisted contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be



imposed and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

**§ 16.9.6** The Contractor will include all clauses 16.1.2.1 to 16.1.2.7 inclusive in every Subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any Subcontractor or vendor as the appropriate agency of the Federal Government may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the appropriate agency of the Federal Government, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**§ 16.9.7** Exemptions to the requirements of the above Equal Opportunity conditions are construction Contracts and Subcontracts not exceeding \$10,000, and Contracts and Subcontracts with regard to Work performed outside the United States by employees who were not recruited in the United States.

#### **§ 16.10 COMPLETION AND LIQUIDATED DAMAGES**

KCATA will suffer financial loss if the Work is not Substantially Complete on the date set forth in the contract documents. The Contractor and the Contractor's Surety shall be liable for and shall pay the Owner the sums previously stipulated, fixed and agreed. Liquidated damages (not a penalty) shall be for each day of delay until the Work is Substantially complete. The Owner is authorized to withhold from monies due the Contractor the sum as indicated above that has been assessed as liquidated damages (not a penalty).

#### **§ 16.11 CONFLICTS OF INTEREST (ORGANIZATIONAL)**

In accordance with 2 C.F.R. § 200.112, 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.

#### **§ 16.12 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.

#### **§ 16.13 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.

#### **§ 16.14 DEBARMENT AND SUSPENSION CERTIFICATION**

**§ 16.14.1** The Contractor shall comply and facilitate compliance with U.S. DOT regulations "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the U.S. Office of Management and Budget & U.S. OMB "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180.

**§ 16.14.2** 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.

**§ 16.14.3** 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.

**§ 16.14.4** 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.

#### **§ 16.15 DELIVERY**

**§ 16.15.1** Materials, products and/or equipment shall be delivered to Kansas City Area Transportation Authority, Central Receiving Facility, Building #1, 1350 East 17th 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.

**§ 16.15.2** 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.

**§ 16.15.3** 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 products, equipment or materials 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.

#### **§ 16.16 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

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

**§ 16.16.2** This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE's) is 10 percent. *KCATA's overall goal for DBE participation is 23.3 percent.* A separate contract goal of **fifteen percent ( 15 %)** has been established for this procurement.

**§ 16.16.3** The Contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR. Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as KCATA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

**§ 16.16.4** The Contractor may not substitute, remove, or terminate a DBE subcontractor without KCATA's prior written consent. Written consent of termination may only be given if the Contractor has demonstrated good cause. 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. The Contractor must give the DBE five days to respond to the 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 Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.

**§ 16.16.4.1 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 to its 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.

**§ 16.16.4.2** 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. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the 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.

#### **§ 16.16.5 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.

#### **§ 16.17 EMPLOYEE ELIGIBILITY VERIFICATION**

**§ 16.17.1** 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.

**§ 16.17.2** 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.

#### **§ 16.18 EMPLOYEE PROTECTIONS**

##### **§ 16.18.1 Construction Employee Protections.**

##### **.1 Davis-Bacon and Copeland Anti-Kickback Standards Acts.**

- .1** The Contractor agrees to comply and assures compliance with the requirements of 40 U.S.C. 3141-3144 and 3146-3148, *et seq.* and Section 1 of 18 U.S.C § 874, and Section 2 of 40 U.S.C. 3145, as amended and implementing U.S. Department of Labor regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-Construction Contracts Subject to the Contract Work Hours and Safety Standards Act," 29 C.F.R. Part 5.
- .2** Contractor shall comply with all rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 which are incorporated by reference in this Contract.
- .3** The Contractor agrees to pay wages to laborers and mechanics performing Contract work at a rate not less than the minimum wages specified in a wage determination issued by the U.S. Secretary of Labor and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 C.F.R. Part 3)). The Contractor agrees to place a copy of the current prevailing wage determination issued by the U.S. DOL in each solicitation for subcontractor work under this project and agrees to refrain from awarding any affected contracts until the subcontractor agrees to the required wage determination.
- .4** The KCATA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to

pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the KCATA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

.5 Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under Section 5.5(a)(3)(i) of the Regulations, 29 C.F.R. Part 5. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

.6 Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

.1 **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a state apprenticeship agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

.2 **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

.7 The Contractor must submit a copy of all payrolls each week to KCATA's project manager. The copy is to be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, and that the wage rates contained therein are not less than those determined by the Secretary of Labor. Upon completion of the Contract, the Contractor is to submit to KCATA's project manager, a certificate concerning wages and classifications for laborers and mechanics.

.8 **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

.9 **Contract Termination -- Debarment.** A breach of the clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a



subcontractor as provided in 29 CFR 5.12.

**.10 Disputes Concerning Labor Standards.** Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general dispute clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**.11 Certification of Eligibility.** By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

**.12** No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**.2 Veterans Employment Preference.** Contractors working on a federally funded capital project shall give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C. § 2018) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

**.3 Special Equal Employment Opportunity (EEO) Provision for Construction Contracts.** During the performance of this Contract, Contractor agrees as follows:

**.1** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

**.2** Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

**.3** Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- .4 Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- .5 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- .6 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- .7 In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- .8 Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **§ 16.18.2 Employee Protections – General.**

### **.1 Contract Work Hours and Safety Standards Act.**

.1 Overtime Requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. (40 U.S.C. § 3701-3708 *et seq* and supplemented by Department of Labor (DOL) Regulations 29 CFR part 5)

.2 Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in Paragraph 1 of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Paragraph 1 of this section, in the sum of \$10 for each calendar day on which such



individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in Paragraph 1 of this section.

**.3 Withholding for Unpaid Wages and Liquidated Damages.** The KCATA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Paragraph 2 of this section.

**.4 Safety Standards.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous as prohibited by the safety requirements of section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3704, and its implementing U.S. Department of Labor regulations, "Safety and Health Regulations for Construction," 29 CFR Part 1926.

**.5 Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in Paragraphs 1 through 5 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Paragraphs 1 through 4 of this section.

#### **§ 16.19 ENVIRONMENTAL REGULATIONS**

**§ 16.19.1 Clean Air.** The Contractor shall 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 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 the FTA and the appropriate U.S. EPA Regional Office will be notified.

**§ 16.19.2 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 receiving more than \$100,000 from this Contract to report any violation of these requirements resulting from any project implementation activity to the KCATA. The Contractor understands that the KCATA will, in turn, report each violation as required to assure notification to the FTA and the appropriate U. S. EPA Regional Office will be notified.

**§ 16.19.3 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.

**§ 16.19.4 Recovered Materials.** o 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.

**§ 16.19.5** The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

## **§ 16.20 FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

**§ 16.20.1** Pursuant to 48 CFR Parts 1, 4, 9, 12 and 52 the Contractor affirmatively represents and certifies that it, nor any of its directors, officers, principals, or agents:

- .1 are delinquent in paying any federal tax liability;
- .2 have not been convicted of any felony criminal violation under any Federal law within the preceding 24 months; or
- .3 have not more than 90 days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.

**§ 16.20.2** The Contractor agrees to include these requirements (Section XX.1.) in all subcontracts at all tiers, regardless of value, and to obtain the same certification and disclosure from all subcontractors (at all tiers).

## **§ 16.21 FEDERAL PARTICIPATION NOTIFICATION**

This project is a federal Department of Transportation/Federal Transit Administration grant funded project. Compliance with all applicable federal regulations is mandatory.

## **§16.22 FORCE MAJEURE**

**§16.22.1** Both Parties shall be excused from performing its obligations under this Contract during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control ("**Excusable Delays**") including, but not limited to: any incidence of fire, flood; acts of God or the public enemy; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; acts of war; terrorism; strikes; any acts, restrictions, regulations, by-laws; prohibitions or measures of any kind on the part of any KCATA; freight embargoes; delays of Contractor's suppliers for like causes; contractual acts of either Party or a material act of omission by either Party; when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Contractor or KCATA. Contractor and KCATA shall use its best efforts to remove the cause of delay and resume work as soon as possible.

**§16.22.2** If at any time, Contractor concludes that any of the Work hereunder will become subject to a delay beyond Contractor's control, including but not limited to any of the aforementioned causes, Contractor shall notify KCATA of the nature and detailed reasons and foreseeable extent of such delay and shall, once every seven (7) calendar days thereafter, notify KCATA whenever, to the best of Contractor's knowledge and belief, the nature or foreseeable extent of such delay shall change. Contractor shall provide this written notice within five (5) business days of Contractor's becoming aware of the facts or matters giving rise to such Excusable Delay. Both Parties shall keep in contact with each other as to the status of such Excusable Delay and shall agree in writing to a restart date when the facts or matters giving rise to such Excusable Delay have concluded and further delays are not foreseen. Upon reengagement of work, Contractor and KCATA will formulate and agree upon an update project schedule, taking into account the timeframe that has passed since the work stoppage, necessary time to resume or re-create any previously completed tasks due to damaged or missing equipment and any associated time periods for shipment and/or manufacture of equipment.

## **§ 16.23 FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

**§ 16.23.1** 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.

**§ 16.23.2** 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.

§ 16.23.3 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

#### **§ 16.24 GENERAL PROVISIONS**

§ 16.24.1 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.

§ 16.24.2 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.

§ 16.24.3 Time of Essence. Time is of the essence in Contractor's performance of this Agreement.

§ 16.24.4 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.

§ 16.24.5 Binding Effect. This Contract shall bind and inure to the benefit of the legal representatives, successors, and permitted assigns of the parties.

§ 16.24.7 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.

§ 16.24.8 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.

§ 16.24.9 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.

§ 16.24.10 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.

§ 16.24.11 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.

**§ 16.24.12 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.

**§ 16.24.13 Notice of Legal Matters.** If this project is federally funded and is expected to equal or exceed \$25,000, KCATA agrees to notify the FTA Chief Counsel or FTA Regional VII legal counsel of a current or prospective legal matter that may affect the Federal government. Contractor agrees this affirmative notification provision will apply to subcontractors and suppliers and is to be included in all agreements at all tiers. Failure to include this notice may be deemed a material breach of contract.

## **§ 16.25 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.

## **§ 16.26 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.

## **§ 16.27 INDEPENDENT CONTRACTOR**

**§ 16.27.1** 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.

**§ 16.27.2** 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.

## **§ 16.28 INSPECTION OF SERVICES**

**§ 16.28.1** 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.

**§ 16.28.2** 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 as the Contract requires.

**§ 16.28.3** 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.

**§ 16.28.4** 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.



**§ 16.28.5** 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.

#### **§ 16.29 LABOR DISPUTE CLAUSE**

**§ 16.29.1** All disputes concerning the payment of prevailing wage rates or classifications shall be promptly reported to the Owner for its referral to DOT for decision or, at the option of the Owner, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor as the case may be, shall be final.

**§ 16.29.2** All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to FTA for referral to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final.

**§ 16.29.3 Convict Labor.** In connection with the performance of work under this Contract, the Contractor agrees not to employ any person undergoing service or imprisonment at hard labor. This does not include convicts who are on parole or probation.

#### **§ 16.29.4 Minimum Wages:**

- .1 All mechanics and laborers employed or working directly upon the site of the Work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR Part 30), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor, which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or Subcontractor and such laborers and mechanics, and the wage decision shall be posted by the Contractor at the site of the work in a prominent place where it can be seen by the workers.
- .2 KCATA shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the Contract shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent to the appropriate Federal agency. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees, to be used, KCATA shall submit the questions together with his recommendation through the appropriate Federal agency to the Secretary of Labor for final determination.
- .3 KCATA shall require, whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obliged to pay a cash equivalent of such a benefit, an hourly cash equivalent thereof to be established. In the event interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the KCATA shall be referred to the Secretary of Labor for determination.
- .4 If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs expressly listed in the wage determination decision of the Secretary of Labor which is a part of this Contract: provided, however the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

#### **§ 16.29.5 Miscellaneous Labor Provisions:**

- .1 Final Labor Summary.** The Contractor and each Subcontractor shall furnish to the Owner, upon the completion of the Contract, a summary of all employment, indicating, for the completed project, the total hours worked, and the total amount earned.
- .2 Final Certificate.** Upon completion of the Contract, the Contractor shall submit to the Owner with the voucher for final payment for any work performed under the Contract, a certificate concerning wages including apprentices and trainees, employed on the project, in the following form:

"The undersigned, Contractor on \_\_\_\_\_ (Contract No.) hereby certifies that all laborers, mechanics, apprentices, and trainees employed by him or by a Subcontractor performing work under this Contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice, or trainee conformed to the classifications set forth in the Contract or training program provisions applicable to the wage rate paid.

\_\_\_\_\_  
Signature and Title:

**§ 16.29.6 Notice to the Owner of Labor Disputes.** Whenever the Contractor has knowledge that any actual or potential labor dispute is delayed or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Owner.

#### **§ 16.30 LIABILITY AND INDEMNIFICATION**

**§ 16.30.2 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.

**§ 16.30.3 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.

#### **§ 16.30.4 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, 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. Contractor shall also indemnify, hold harmless and defend the KCATA for any contractor or subcontractor action, tort, or violation of federal or state law or city ordinance.
- .2** In claims against any person or entity indemnified under this section, by an employee or Contractor, or anyone directly or indirectly employed by any of them, the subcontractor or sub-subcontractor 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. Under these circumstances, KCATA retains the right to recover all costs of defense from the Contractor.
- .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.

**§ 16.30.5 Release of Liability.** Contractor, its officers, directors, employees, heirs, administrators, executors, agents and representatives and respective successors and assigns hereby fully release, remise, acquit and forever discharge the KCATA and its commissioners, officers, directors, attorneys, employees, agents, representatives and its respective successors and assigns from any and all actions, claims, causes of action, suits, rights, debts, liabilities, accounts, agreements, covenants, contracts, promises, warranties, judgments, executions, demands, damages, costs and expenses, whether known or unknown at this time, of any kind or nature, absolute or contingent, existing at law or in equity, on account of any matter related to this agreement, cause or thing whatsoever that has happened, developed or occurred before or after you sign and deliver this Contract to KCATA. This release will survive the termination of this Contract.

### **§ 16.31 LICENSING, LAWS AND REGULATIONS**

**§ 16.31.1** 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.

**§ 16.31.2** 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.

**§ 16.31.3** The Contractor shall be responsible for obtaining all required permits and licenses required to complete construction and installation of the work.

### **§ 16.32 LOBBYING RESTRICTIONS**

**§ 16.32.1** 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, as amended; 2 C.F.R. § 200.450, 2 C.F.R. part 200 appendix II (J) and 49 CFR Part 20, to the extent consistent with 31 U.S.C. § 1352, as amended. The Contractor agrees to comply with this requirement throughout the term of the Contract.



**§ 16.32.2** 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).

**§ 16.33 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(c), 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.

**§ 16.34 NOISE CONTROL**

**§ 16.34.1** All equipment shall be designed and selected to be free of objectionable noise and vibration. Hoists, compressors, and other machinery shall be housed in sound-attenuating enclosures.

**§ 16.34.2** Engine-driven equipment shall be equipped with exhaust and, where appropriate, air intake silencers designed for the maximum degree of silencing. The type of silencer required is that for use in critical noise-problem locations such as high-density residential and hospital areas.

**§ 16.35 NOTIFICATION AND COMMUNICATION**

**§ 16.35.1** Communications regarding technical issues and activities of the project shall be exchanged with (Name), KCATA's (Title), at (816) 346- or via e-mail at [@kcata.org](mailto:kcata.org).

**§ 16.35.2** 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:	Name, Title
	Kansas City Area Transportation Authority
	1350 East 17 <sup>th</sup> Street
	Kansas City, MO 64108

If to Contractor:	

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

§ 16.35.4 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.

#### **§ 16.36 PAYROLLS AND BASIC RECORDS**

§ 16.36.1 The Contractor shall maintain payrolls and basic records relating thereto during the course of the Work and shall preserve them for a period of three (3) years thereafter for all laborers and mechanics, including apprentices and trainees, working at the site of the Work. Such records shall contain the name and address of each employee, his correct classification, rate of pay (including rates of contributions for, or cost assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Contract has obtained approval from the Secretary of Labor as provided in this Agreement, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

§ 16.36.2 The Contractor shall submit weekly a copy of all payrolls to the KCATA. The prime Contractor shall be responsible for the submission of copies of payrolls of all Subcontractors. Each such copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classification set forth for each laborer mechanic, including apprentices and trainees, conform to the work he performed. Submission of the "Weekly Statement of Compliance" required under this Contract and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) shall satisfy the requirement for submissions of the above statement. The Contractor shall also submit a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by this Agreement.

§ 16.36.3 Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted on the Owner that their employment is pursuant to an approved program and shall identify the program. Contractors and subcontractors may not employ "helpers" as the term is defined in DOL Memorandum No. 174, dated December 2, 1993, included in Section 4.2, Federal Wage Rates.

§ 16.36.4 The Contractor will make the records required under the labor standards clauses of the Contract available for inspection by authorized representatives of the Owner, the appropriate Federal agency, and the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

#### **§ 16.37 PRIVACY ACT REQUIREMENTS**

§ 16.37.1 The Contractor agrees to comply with, and assures the compliance of its employees and subcontractors with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552. Among other things, the Contractor agrees to obtain the express consent of the KCATA and/or the Federal Government before the Contractor or its employees operate a system of records on behalf of the KCATA or Federal Government.

§ 16.37.2 The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to all individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

§ 16.37.3 The Contractor agrees that strict privacy will be maintained in the collection, storage, use, transfer, access to and/or security of personnel information. Contractor agrees to protect such information, and to limit the use of the information to that required by the contract.

§ 16.37.4 Contractor shall be liable to each employee for loss of any private or personal information lost or left unsecure by Contractor. Contractor shall not have any personal employee information for any reason outside of this contract.

#### **§ 16.38 PROHIBITED INTERESTS**

§ 16.38.1 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.

**§ 16.38.2** 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.

### **§ 16.39 PROHIBITED WEAPONS AND MATERIALS**

**§ 16.39.1** Missouri Revised Statutes, Section 571.107 (RSMo §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.

### **§ 15.3 Mediation**

**§ 16.39.2** 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.

**§ 16.39.3** 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.

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 16.39.4** 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.

**§ 16.39.5** 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.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

### **§ 16.40 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT**

Contractor represents that it is and will be compliant at all times with 2 CFR § 200.216 and will not provide telecommunications and/or video surveillance services or equipment to the KCATA in the performance of any contract, subcontract or other contractual instrument resulting from a solicitation or RFP that have been manufactured

by a supplier (including any subsidiary or affiliate of those entities) that is considered prohibited or not approved under this regulation. This statute is not limited to entities that use end-products produced by those companies; and also covers the use of any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

#### **§ 16.41 RECORD RETENTION AND ACCESS**

~~§ 15.3.3~~ Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

**§ 16.41.1** 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 accordance with 2 CFR § 200.33, 49 U.S.C. § 5325(g) and 49 CFR part 633. In the event of litigation or settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain same until such litigation, appeals, claims, or exceptions related thereto have been disposed of.

**§ 16.41.2** The Contractor shall permit KCATA, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, as applicable, any local municipality, 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.

~~§ 15.3.4~~ The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 16.41.3** 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.

#### **§ 16.42 SEAT BELT USE POLICY**

The 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 Contract.

#### **§ 15.4 Arbitration**

#### **§ 16.43 SEISMIC SAFETY**

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the Standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The Contractor agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

#### **§ 16.44 SEVERABILITY**

If any clause or provision of this Agreement is declared to be invalid by any court of competent jurisdiction, then and in that event, the remaining provisions hereof shall remain in force. In lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there shall be added as part of this Agreement, a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party



filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

#### **§ 16.45 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.

#### **§ 16.46 SUBSTANCE ABUSE/DRUG ALCOHOL TESTING**

The Contractor agrees to comply with U.S. DOT regulation "Drug Free Workplace Requirements (Grant)," 40 CFR, Part 29, Subpart F. In addition, Contractor will comply with all drug, alcohol and substance abuse testing requirements for the KCATA.

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

#### **§ 16.47 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.

#### **§ 16.48 UNAVOIDABLE DELAYS**

~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 16.48.1 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.

§ 16.48.2 Notification of Delays. The Contractor shall notify the Director of Procurement as soon as the Contractor has, or should have, knowledge that an event has occurred which will cause an unavoidable delay. Within five (5) days, the Contractor shall confirm such notice in writing, furnishing as much as detail as is available.

~~§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~

§ 16.48.3 Request for Extension. The Contractor agrees to supply, as soon as such data is available, any reasonable proof that is required by the Director of Procurement to make a decision on any request for extension. The Director of Procurement shall examine the request and any documents supplied by the Contractor and shall determine if the Contractor is entitled to an extension and the duration of such extension. The Director of Procurement shall notify the Contractor of its decision in writing.

§ 16.48.4 It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation and shall not be reimbursed for losses on account of delays resulting from any cause under this provision, except to the extent the Contractor's delay was attributable to KCATA's non-performance of its duties herein.

#### **§ 15.4.4 Consolidation or Joinder**

#### **§ 16.49 UNLAWFUL EMPLOYMENT PRACTICE**

~~§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to~~

be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 16.49.1** The Contractor and each Subcontractor agrees to refrain from any unlawful employment practices as presently defined by Section 26.222, Revised Ordinances, City of Kansas City, Missouri, and that such person will post on his or its premises at the office of employment notices setting forth the provisions of Section 26.222, and further setting forth that such person agrees to abide by said provisions; that such person agrees to implement the Certificate of Compliance or Affirmative Action Program submitted by him in connection with this Contract, and that such person shall be bound by the terms of Section 26.233, Revised Ordinances, City of Kansas City, Missouri, and by the Rules and Regulations promulgated for the administration of Section 26.288 through 26.243.

**§ 16.49.2** Every person subject to Section 26.233 is hereby deemed to agree to permit the authorized representative of the KCATA, the Director of Human Relations of the City of Kansas City, Missouri, or his duly authorized agents or employees, access at all reasonable times to all such persons, books, papers, records, reports, or accounts in the possession of or under the control of such person, as may be necessary to ascertain compliance with Section 26.233, and to furnish such further information as may be required of him, all within ten (10) days of the date requested in writing.

**§ 16.49.3** If the Contractor shall fail, refuse, or neglect to comply with the terms of these Contract Conditions, such failure shall be deemed a total breach of this Contract; and such Contract may be terminated, canceled, or suspended, in whole or in part, and such Contractor may be declared ineligible for any further KCATA contracts for a period of up to one year. Provided, that if this Contract is terminated, canceled, or suspended for failure to comply with Section 26.231, the Contractor shall have no claims for damages against the KCATA or the City of Kansas City, Missouri, on account of such termination, cancellation, or suspension or declaration of ineligibility.

**§ 16.49.4** All contracts executed by the Contractor with a Subcontractor and relating to this KCATA Contract, shall contain as a condition thereof, the provisions of Section 26.232, Revised Ordinances, City of Kansas City, Missouri, relating to contract conditions; and such subcontractor shall be subject to the provisions of Section 26.228 through 26.243.

## **§ 16.50 UNITED STATES PREFERENCE**

### **§ 16.50.1 Buy America.**

**.1** The Contractor agrees to comply with 49 U.S.C. §5323(j), and 49 CFR. Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment & software. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR Part 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 70 percent (70%) domestic content.

**.2** The Contractor further agrees to include these requirements in all subcontracts exceeding \$150,000.

### **§ 16.50.2 Cargo Preference.**

**.1** In the event that ocean shipment is required for any material or commodity pursuant to this Agreement, the Contractor agrees to utilize United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo



liners, and tankers) involved, to the extent such vessels are available at fair and reasonable rates for the United States-Flag commercial vessels.

.2 The Contractor further agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "ON BOARD" commercial ocean bill-of-lading in English for each shipment of cargo described in the paragraph above to KCATA (through the Prime Contractor or in the case of subcontractor bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington, DC, 20590, marked with the appropriate identification of the Project.

.3 The Contractor further agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, materials or commodities by ocean liner and exceeds \$150,000.

§ 16.50.3 Fly America. In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118 - the "Fly America" Act), and in accordance with the General Service Administration's regulations at 41 CFR Part 301-10, recipients and subrecipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier (based on the reasons found in FAR § 47.403) and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation and exceed \$150,000.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 07:58:32 ET on 06/07/2022 under Order No. 3104236398 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*



### 3.3 SUPPLEMENTARY CONDITIONS

The following supplements modify the "General Conditions of the Contract for Construction," "AIA Document A-201, 2007 Edition as modified." Where any Article of the General Conditions is modified or any Paragraph, Subparagraph, or Clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph, or Clause shall remain in effect.

#### ARTICLE 1: GENERAL PROVISIONS

None

#### ARTICLE 2: OWNER

None

#### ARTICLE 3: CONTRACTOR

None

#### ARTICLE 4: ARCHITECT

None

#### ARTICLE 5: SUBCONTRACTORS

None

#### ARTICLE 6: CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

None

#### ARTICLE 7: CHANGES IN THE WORK

None

#### ARTICLE 8: TIME

None

#### ARTICLE 9: PAYMENTS AND COMPLETION

##### SC 9.3.8 CHANGE ORDERS, CHANGE DIRECTIVES AND PROJECT ALLOWANCES

Change Orders, Change Directives and Project Allowances are methods of payment to the contractor for changes in the project work; additional work and unanticipated tasks ("Extra Work") necessary to complete the contract work, whereby reimbursement is

made based substantially on terms of the original contract. Reimbursement may be in accordance with one or more of the following: 1) On a monitored and confirmed time and materials basis, 2) To account for quantity overruns on unit price contract items, or 3) To offset additional costs of negotiated work where price can be reasonably determined from the terms of the original contract and verified by cost analysis.

A Project Allowance (aka allocated contingency) may be included in the total bid price by line item in the bid form or payment schedule. The contractor shall not assume any benefit from or assign any project costs to the Project Allowance. It shall only be employed at the sole discretion of KCATA.

When time and material procedures are initiated, it is the intent to reimburse the contractor for the actual costs of the work, plus overhead and profit to avoid a negative impact to the KCATA and contractor. All markups shall include overhead and profit. No additional markups shall be allowed.

The compensation as herein provided shall be received by the Contractor as payment in full for Extra Work done, in which the markup which is allowed on labor cost, material cost, and equipment cost, and when applicable the markups on subcontractor work, is being made and accepted to cover all administration, general superintendents, other overhead, bonds, insurance, anticipated profit and use of small tools and equipment for which no direct compensation is allowed. **The rates for overhead markups set forth herein are caps (maximum) and not predetermined allowed markups.**

Allowed overhead markups used by the contractor, must be verifiable by certified audit and submitted upon request. Should the Contractor refuse to prosecute the work as directed or refuse to submit full and complete documentation as required, KCATA may, at its sole discretion, withhold future payments.

All Extra Work done on a time and material basis will be paid for as actual costs incurred, as agreed to by KCATA, plus overhead and profit. Allowable overhead and profit shall not exceed the following percentages:

Cost Item	Not to Exceed Percent Markup
Benefits to Direct Labor (GC and Subcontractor)	25
Insurance and Taxes to Direct Labor (GC and Subcontractor)	25
Materials (GC and Subcontractor)	15
Owned Equipment (GC and Subcontractor)	10
Rental Equipment (GC and Subcontractor)	10
GC Markup on Subcontractor Work	10 (for first \$10,000)
GC Markup on Subcontractor Work	5 (work in excess of \$10,000)
Profit	TBD

Contractor may be required to submit a current certified audit verifying company overhead rates in relation to construction costs. Should it be determined that the contractor's overhead rate is less than the percentage paid, KCATA shall be reimbursed by the contractor for the amount of the overpayment.

Costs shall be calculated in accordance with the following or as otherwise agreed to by KCATA and the contractor:

**A. LABOR**-For all Labor, including equipment operators and foreman in direct charge of the specific operation, the Contractor will receive the current local rate of wage per hour for each and every hour that said laborers and foreman are actually engaged in such work, plus identified markup. Wages or benefits for personnel connected with the contractor's forces above the classification of foreman and having only general supervisory responsibility for the Project Allowance work will not be allowed.

The direct labor charges shall be the actual payroll rate of wages per hour and actual fringe benefits paid. The fringe benefits would be those included on a prevailing minimum wage predetermination, if applicable, which are actually paid. This would include health and welfare, apprentice training, supplemental unemployment benefits and pension plans but does not include profit sharing plans.

**B. INSURANCE AND TAXES** - The contractor will receive the actual cost paid for social security tax; Medicare tax; unemployment taxes at the effective rate; worker's compensation insurance; contractor's public liability insurance at the policy percentage rate; contractor's property damage liability insurance at the policy percentage rate, additional bond, plus markup for overhead and profit identified above.

**C. MATERIALS** - For all materials furnished and used, the Contractor will receive the actual cost of such materials, including freight charges, as shown by original paid bills, to which the approved markup shall be added. Sales tax shall not be an acceptable cost.



**D. EQUIPMENT-** For any machinery, trucks or equipment (exclusive of operators), except small tools and equipment (less than \$1,000 replacement value) for which no compensation is allowed, which may be deemed by the KCATA to be necessary or desirable to use, the KCATA will allow the Contractor a reasonable rate of hire for rental prices for machinery, trucks, or equipment, which shall include fuel and lubricants, for each and every hour that such machinery, truck, or equipment is in use on such work, and to which markup will be added as indicated above.

The maximum rental rates which the KCATA will allow shall be computed in the following manner:

For owned equipment, an hourly rate will be determined using the weekly rental rates, including applicable adjustment factors, taken from the current edition (including updated supplements) of the Rental Rate Blue Book for Construction Equipment or a current rental publication and dividing by Forty (40). An allowance will be made for operating cost for every hour the machinery or equipment is operating, in accordance with rates listed in the Rental Rate Blue Book. If machinery or equipment is required at the work site but is not operating, compensation will be at the hourly rate exclusive of operating costs.

For rented equipment, actual rental rates shall apply unless they exceed Blue Book rates by more than 10 percent in which case a maximum of Blue Book rates plus 10 percent will be paid. An allowance will be made for operating cost for every hour the machinery or equipment is operating, in accordance with rates listed in the Rental Rate Blue Book. If machinery or equipment is required at the work site but is not operating, compensation will be at the hourly rate exclusive of operating costs.

In the case of equipment not in the Rental Rate Blue Book for Construction Equipment, a weekly rate shall be computed on the basis of One and One Half Percent (1½%) of the manufacturer's list price for new equipment. The hourly rate shall be determined by dividing the weekly rate by Forty (40) for equipment actually operating and dividing by Forty-Four (44) for equipment required at the work site but not operating.

Mobilization of equipment for Project Allowance work will be paid on the basis of labor and equipment rates in accordance with this subsection.

Sales tax shall not be an acceptable cost.

#### **E. MOBILIZATION**

- a. Unit of measure is Lump Sum. Maximum allowable mobilization shall be 6%.
- b. Payment for this item shall include costs of all work and items necessary to begin the project. These items include but may not be limited to: obtaining ATA and City required bonds, paying for permits, additional insurance (if required), setting up a construction office, etc. Mobilization costs shall be paid as follows: 1st Payment application – 50%, 2nd Payment application – 25%, 3rd Payment application – 25%. If requested, the contractor shall submit a breakdown of items included in Mobilization.

**F. ADMINISTRATION & MANAGEMENT (GENERAL CONDITIONS)**

- a. Unit of measure is Lump Sum and paid out as a percentage equal to the estimated percent complete of the project.
- b. Payment for this item shall include costs of all work and items necessary to maintain the project. These items include but may not be limited to: Preparing and updating project schedule, preparation of shop drawing submittals, submittal of weekly payroll records, preparation of monthly payment applications and lien waivers, coordination with other contractors, coordination with the KCATA and architect/engineer, attending progress meetings, etc. If requested, the contractor shall submit a breakdown of items included in Administration & Management.

**G. SUBCONTRACTS** - Payment for work performed by subcontractors will be based upon actual labor, materials, and equipment supplied and computed as specified herein. The markup includes the overhead and profit of the subcontractor. The prime Contractor will be allowed an additional markup as identified above. Subcontractors on a lump sum basis may be accepted as a component of Project Allowance work if, in the opinion of the KCATA, the subcontractor proposal is reasonable.

**H. Payments** – To receive payment for Project Allowance work, Contractor shall provide the following in itemized statements:

Name, classification, date, daily hours, total hours, rate, and amount for all labor.

1. Designation, dates, daily hours, total hours of actual operation and stand-by operation, rental rate, and amount for each unit of equipment, or the applicable hourly equipment expense rate for each truck or other unit of machinery and equipment. Include the manufacturer's name or trademark, model number, and year of manufacture with the designation.
2. Quantities of materials and prices.
3. Transportation charges on materials, f.o.b. at job site.
4. Documentation showing payment for all invoiced work.
5. Documentation for insurance, taxes and bonding expenses.
6. If materials are taken from contractor's stock and original receipted invoices for the materials and transportation charges cannot be provided, provide an affidavit and certify the following:
  - a. The materials were taken from the contractor's stock.
  - b. The quantity shown was actually used for the Project Allowance work.
  - c. The price and transportation costs represent the actual cost to the contractor.

**ARTICLE 10: PROTECTION OF PERSONS AND PROPERTY**

None

**ARTICLE 11: INSURANCE AND BONDS**

None

ARTICLE 12: UNCOVERING AND CORRECTION OF WORK

None

ARTICLE 13: MISCELLANEOUS PROVISIONS

None

ARTICLE 14: TERMINATION OR SUSPENSION OF THE CONTRACT

None

ARTICLE 15: CLAIMS AND DISPUTES

None

ARTICLE 16: CIVIL RIGHTS

None

ARTICLE 17: ADDITIONAL GOVERNMENT CONDITIONS

None

ARTICLE 18:

None

## Application and Certificate for Payment

TO OWNER:	PROJECT:	APPLICATION NO:	<u>Distribution to:</u>
		PERIOD TO:	OWNER <input type="checkbox"/>
		CONTRACT FOR:	ARCHITECT <input type="checkbox"/>
FROM CONTRACTOR:	VIA ARCHITECT:	CONTRACT DATE:	CONTRACTOR <input type="checkbox"/>
		PROJECT NOS:        /        /	FIELD <input type="checkbox"/>
			OTHER <input type="checkbox"/>

### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703®, Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM ..... \$ \_\_\_\_\_
2. NET CHANGE BY CHANGE ORDERS ..... \$ \_\_\_\_\_
3. CONTRACT SUM TO DATE (Line 1 ± 2) ..... \$ \_\_\_\_\_
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) ..... \$ \_\_\_\_\_
5. RETAINAGE:
  - a. \_\_\_\_\_% of Completed Work  
(Columns D + E on G703) ..... \$ \_\_\_\_\_
  - b. \_\_\_\_\_% of Stored Material  
(Column F on G703) ..... \$ \_\_\_\_\_

Total Retainage (Lines 5a + 5b, or Total in Column I of G703)..... \$ \_\_\_\_\_
6. TOTAL EARNED LESS RETAINAGE ..... \$ \_\_\_\_\_  
(Line 4 minus Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT ..... \$ \_\_\_\_\_  
(Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE ..... \$
9. BALANCE TO FINISH, INCLUDING RETAINAGE ..... \$ \_\_\_\_\_  
(Line 3 minus Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ _____	\$ _____
Total approved this month	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____
NET CHANGES by Change Order	\$ _____	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_

State of: \_\_\_\_\_

County of: \_\_\_\_\_

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

Notary Public:

My commission expires: \_\_\_\_\_

### ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ \_\_\_\_\_

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTRACTOR

CHANGE ORDER

OWNER:

KANSAS CITY AREA TRANSPORTATION  
AUTHORITY  
1350 E. 17th Street  
Kansas City, MO 64108

PROJECT:

Change Order No.: 1

DISTRIBUTION TO:

Date:

X

OWNER

Const. Manager

ARCHITECT

CONTRACTOR

Other

CONTRACTOR:

Date:

X

CONTRACT FOR:

Contract Date:

THE CONTRACT HAS CHANGED AS FOLLOWS:

Item No.	Cost	Description
1	\$ -	Description
2	\$ -	Description
3	\$ -	Description
4	\$ -	Description
5	\$ -	Description
6	\$ -	Description
7	\$ -	Description
8	\$ -	Description
9	\$ -	Description
10	\$ -	Description

Total \$ -

Attachments: No additional documentation

The original Contract Sum was \$ -

Net change by previously authorized Change Orders \$ -

The Contract Sum prior to this Change Order was \$ -

The Contract Sum will be unchanged by this Change Order in the amount of \$ -

The new Contract Sum including this Change Order will be \$ -

The Contract Time will be unchanged by 0 calendar days

The date of Substantial Completion as of the date of this Change Order is January 1, 2008

ACCEPTED BY:

Contractor

by: President

Owner

Kansas City Area Transportation Authority

by: Michael Graham  
VP/CFO

This Change Order is hereby made a part of the original contract to the same extent as if it were originally included therein and is intended to modify the contract documents as delineated above. Unless otherwise indicated, all specifications and contract conditions shall apply to this Change Order.

**CONTRACTOR'S FINAL WAIVER & RELEASE  
(Conditional)**

The undersigned, being first duly sworn on my oath, certify and state that I hold the position of \_\_\_\_\_ for \_\_\_\_\_ ("Contractor")  
(Title) (Name of Contractor)  
and that I am the authorized representative for the Contractor named in the contract by and between the Contractor and Kansas City Area Transportation Authority ("Owner"), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the "Contract") for the project located at \_\_\_\_\_.  
(project name and location)

**FINAL PAYMENT AMOUNT**

The amount of \$\_\_\_\_\_, upon receipt of same, represents full and final payment, including retainage, for all labor performed and materials furnished by the Contractor, its subcontractors, suppliers, agents and employees on the above-referenced project. Upon receipt of such payment, the Contractor hereby releases all mechanic's and materialmen's lien rights, all claims, direct and indirect, impact claims, and all causes of action resulting from labor and materials, subcontract work, or other work, equipment, rents, services or supplies furnished and performed by the Contractor under the Contract. The Contractor further agrees to indemnify, defend and hold harmless the Owner, its successors and assigns, from any claim or claims hereinafter made by suppliers of materials or subcontractors, employees, servants, agents or assigns, arising out of or connected with the work performed under the Contract. The Contractor understands that the Owner will act and rely upon this document in releasing any funds due or owing to the Contractor.

**PREVIOUS PAYMENTS RECEIVED:**

I certify that the Contractor has received the amount of \$\_\_\_\_\_, representing payment in full for all labor performed and/or materials furnished by the undersigned, its subcontractors and suppliers on the above-referenced project through \_\_\_\_\_(date), and includes Payment Application numbers \_\_\_\_\_.

**FINAL CONTRACT AMOUNT EARNED:**

I certify that the Contractor has furnished all materials and performed all work up to and including the final payment application in the total amount of \$\_\_\_\_\_ (final contract amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Signature: \_\_\_\_\_  
Company/Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

My Commission Expires:  
\_\_\_\_\_



Payment Application No. \_\_\_\_\_

Date: \_\_\_\_\_

**CONTRACTOR'S PARTIAL WAIVER & RELEASE**

(To Be an Attachment with Each Partial Payment Application)

The undersigned, being first duly sworn on my oath, certify and state that I hold the position of \_\_\_\_\_ for \_\_\_\_\_ ("Contractor")

(Title) (Name of Contractor)

and that I am the authorized representative for the Contractor named in the contract by and between the Contractor and Kansas City Area Transportation Authority ("Owner"), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "Contract") for the project located at \_\_\_\_\_ (project name and number).

**CURRENT PAYMENT APPLICATION AMOUNT EARNED:**

I certify that the Contractor has furnished all materials and performed all work as identified in the above referenced Payment Application, in the amount of \$\_\_\_\_\_ (amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents. Amount earned under current Payment Application LESS RETAINAGE \$ \_\_\_\_\_ (current amount due).

**TOTAL AMOUNT EARNED TO DATE:**

I certify that the Contractor has furnished all materials and performed all work up to and including the current payment application in the amount of \$\_\_\_\_\_ (amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents. Total amount earned LESS RETAINAGE \$ \_\_\_\_\_ (payments received + payments due, less retainage).

**PREVIOUS PAYMENTS RECEIVED:**

I certify that the Contractor has received the amount of \$\_\_\_\_\_, representing payment in full, less retainage, for all labor performed and/or materials furnished by the undersigned, its subcontractors and suppliers on the above-referenced project through \_\_\_\_\_ (date), and includes Payment Application numbers \_\_\_\_\_.

Further, the Contractor hereby warrants that all subcontractors and suppliers have been paid in full, less retainage, by the Contractor for all labor and materials, which have been furnished and performed as identified in prior Payment Application numbers \_\_\_\_\_. The undersigned understands that Owner or anyone in its behalf may and will act and rely upon this instrument in releasing any funds due or owing to the Contractor.

Upon receipt of the present progress payment, less retainage, the undersigned releases all mechanic's and materialmen's lien rights, all claims, direct and indirect, impact claims, and all causes of action to date resulting from labor and materials, subcontract work, or other work, equipment, rentals, services or supplies heretofore furnished and performed by or for the Contractor under said Contract. Contractor further restates that it has released unconditionally all such rights and claims as a result of receipt of payment, less retainage, on all prior payments. Further, Contractor hereby agrees to indemnify, defend and hold harmless Owner, its successors and assigns, from any claim or claims hereinafter made by suppliers of materials to Contractor, by the subcontractors, employees, servants, agents or assigns therefor, arising out of or connected with the work performed under this and all prior payments.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Signature: \_\_\_\_\_

Company/Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

My Commission Expires: \_\_\_\_\_

Payment Application No. FINAL  
Date: \_\_\_\_\_  
Project #: \_\_\_\_\_

**CONTRACTOR'S FINAL WAIVER & RELEASE  
(Unconditional)**

The undersigned, being first duly sworn on my oath, certify and state that I hold the position of \_\_\_\_\_ for \_\_\_\_\_ (“Contractor”)  
(Title) (Name of Contractor)  
and that I am the authorized representative for the Contractor named in the contract by and between the Contractor and Kansas City Area Transportation Authority (“Owner”), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Contract”) for the project located at \_\_\_\_\_  
(project name and location)

On behalf of the Contractor, I certify that the work provided for in the Contract has been entirely completed in accordance with the Contract and the Contract Documents; that all of the bills for material used in or about said work, and for all labor employed in connection with the said work have been fully paid; that all of the work performed under the Contract is free and clear from all liens for labor or materials and that no claim exists out of which a lien may grow, and that all of the obligations of Contractor of every kind and description arising out of or connected with the Contract, including payment of various taxes imposed by any governmental authority, have been fully satisfied. Contractor has obtained, and provides herewith, the Final Release and Lien Waivers executed by all subcontractors and major suppliers.

The amount of \$\_\_\_\_\_, the receipt of which is hereby acknowledged, represents full and final payment, including retainage, for all labor performed and materials furnished by the Contractor, its subcontractors, suppliers, agents and employees on the above-referenced project. In consideration of such payment, the Contractor hereby unconditionally releases all mechanic’s and materialmen’s lien rights, all claims, direct and indirect, impact claims, and all causes of action resulting from labor and materials, subcontract work, or other work, equipment, rents, services or supplies furnished and performed by the Contractor under the Contract. The Contractor further agrees to indemnify, defend and hold harmless the Owner, its successors and assigns, from any claim or claims hereinafter made by suppliers of materials or subcontractors, employees, servants, agents or assigns, arising out of or connected with the work performed under the Contract. The Contractor understands that the Owner will act and rely upon this document in releasing any funds due or owing to the Contractor.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_  
Company/Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

My Commission Expires:  
\_\_\_\_\_

## SUBCONTRACTOR/SUPPLIER FINAL WAIVER & RELEASE (Conditional)

The undersigned, being first duly sworn on my oath, certify and state that I hold the position of \_\_\_\_\_ for \_\_\_\_\_ (“Subcontractor/Supplier”).

(Title) (Name of Subcontractor/Supplier)

and that I am the authorized representative for the Subcontractor/Supplier named in the contract by and between the Subcontractor/Supplier and \_\_\_\_\_ (“Contractor”), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Subcontract/Purchase Order”) for the project located at \_\_\_\_\_.

*(Project name and location)*

**FINAL PAYMENT AMOUNT**

The amount of \$ \_\_\_\_\_, upon receipt of same, represents full and final payment, including retainage, for all labor performed and materials furnished by the Subcontractor/Supplier, its subcontractors, suppliers, agents and employees on the above-referenced project. Upon receipt of such payment, the Subcontractor/Supplier hereby releases all mechanic's and materialmen's lien rights, all claims, direct and indirect, impact claims, and all causes of action resulting from labor and materials, subcontract work, or other work, equipment, rents, services or supplies furnished and performed by the Subcontractor/Supplier under the Contract. The Subcontractor/Supplier further agrees to indemnify, defend and hold harmless the Owner, its successors and assigns, from any claim or claims hereinafter made by suppliers of materials or subcontractors, employees, servants, agents or assigns, arising out of or connected with the work performed under the Contract. The Subcontractor/Supplier understands that the Owner will act and rely upon this document in releasing any funds due or owing to the Contractor.

**PREVIOUS PAYMENTS RECEIVED:**

I certify that the Subcontractor/Supplier has received the amount of \$ \_\_\_\_\_, representing payment in full for all labor performed and/or materials furnished by the undersigned, its subcontractors and suppliers on the above-referenced project through \_\_\_\_\_ (date), and includes Payment Application numbers \_\_\_\_\_.

**FINAL CONTRACT AMOUNT EARNED:**

I certify that the Subcontractor/Supplier has furnished all materials and performed all work up to and including the final payment application in the total amount of \$\_\_\_\_\_ (final contract amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature: \_\_\_\_\_

Company/Title: \_\_\_\_\_

STATE OF )  
 ) ss  
COUNTY OF )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public

My Commission Expires:

**SUBCONTRACTOR/SUPPLIER PARTIAL WAIVER & RELEASE**

(To Be an Attachment with Each Partial Payment Application)

The undersigned, being first duly sworn on my oath, certify and state that I hold the position of \_\_\_\_\_ for \_\_\_\_\_ (“Subcontractor/Supplier”)  
 \_\_\_\_\_ (Title) \_\_\_\_\_ (Name of Subcontractor/Supplier)

and that I am the authorized representative for the Subcontractor/Supplier in a subcontract/purchase order by and between undersigned Subcontract/Supplier and \_\_\_\_\_ (“Contractor”), dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Subcontract/Purchase Order”) for the project located at \_\_\_\_\_.  
 \_\_\_\_\_ (Project name and number)

**CURRENT PAYMENT APPLICATION AMOUNT EARNED:**

I certify that the Subcontractor/Supplier has furnished all materials and performed all work as identified in the above referenced Payment Application, in the amount of \$\_\_\_\_\_ (amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents.

Amount earned under current Payment Application LESS RETAINAGE \$\_\_\_\_\_ (current amount due).

**TOTAL AMOUNT EARNED TO DATE:**

I certify that the Subcontractor/Supplier has furnished all materials and performed all work up to and including the current payment application in the amount of \$\_\_\_\_\_ (amount earned incl. retainage), and that such materials and work have been furnished and performed in compliance with the Contract on the above-referenced project and the Contract Documents.

Total amount earned LESS RETAINAGE \$\_\_\_\_\_ (payments received + payments due, less retainage).

**PREVIOUS PAYMENTS RECEIVED:**

I certify that the Subcontractor/Supplier has received the amount of \$\_\_\_\_\_, representing payment in full, less retainage, for all labor performed and/or materials furnished by the undersigned, its subcontractors and suppliers on the above-referenced project through \_\_\_\_\_ (date), and includes Payment Application numbers \_\_\_\_\_.

Further, the Subcontractor/Supplier hereby warrants that all its subcontractors and suppliers have been paid in full, less retainage, by the Subcontractor/Supplier for all labor and materials, which have been furnished and performed as identified in prior Payment Application numbers \_\_\_\_\_. The undersigned understands that Owner or anyone in its behalf may and will act and rely upon this instrument in releasing any funds due or owing to the Contractor.

Upon receipt of the present progress payment, less retainage, the undersigned releases all mechanic’s and materialmen’s lien rights, all claims, direct and indirect, impact claims, and all causes of action to date resulting from labor and materials, subcontract work, or other work, equipment, rentals, services or supplies heretofore furnished and performed by or for the Subcontractor under said Contract. Subcontractor/Supplier further restates that it has released unconditionally all such rights and claims as a result of receipt of payment, less retainage, on all prior payment applications. Further, Subcontractor/Supplier hereby agrees to indemnify, defend and hold harmless Owner and Contractor and their respective successors and assigns, from any claim or claims hereinafter made by its subcontractors or suppliers for labor and materials, arising out of or connected with the work performed under this and all prior payments.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Company/Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss  
 COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

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

**KANSAS CITY AREA TRANSPORTATION AUTHORITY  
SUBCONTRACTOR MONTHLY UTILIZATION REPORT**

Report Date:		Project Name:		Payment Application No.
Project Address		Contract Award Date:	Contract Start Date:	Total Contract Days:
Prime Contractor Name:		Contact Person/Phone:	Email Address:	
Prime Contractor Address:		Total Contract Amount:	Project DBE Goal (%):	Contractor DBE Commitment on Project (%):

PAYMENTS TO SUBCONTRACTORS (INCUDING DBE AND NON-DBE)

	DBE ? Yes / No	Contract		Current Payment Application			Previous Payment Applications			Current + Previous Payment Applications			Actual Payments Received to Date	% of Contract Paid to Date
		Amount	% of Total Contract	Total Amount Billed This Period	Retainage This Period	Scheduled Payment This Period	Total Billed to Date	Retainage to Date	Scheduled Payments to Date	Total Billed to Date	Total Retainage to Date	Total Scheduled Payments to Date		
General Contractor		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subcontractor 1		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subcontractor 2		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subcontractor 3		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subcontractor 4		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subcontractor 5		\$ -				\$ -			\$ -	\$ -	\$ -	\$ -		
Subcontractor 6		\$ -				\$ -			\$ -	\$ -	\$ -	\$ -		
Subcontractor 7		\$ -				\$ -			\$ -	\$ -	\$ -	\$ -		
Subcontractor 8		\$ -				\$ -			\$ -	\$ -	\$ -	\$ -		
TOTALS FOR THIS REPORTING PERIOD		\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	#DIV/0!

Report Submitted By:

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Date Submitted:

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**REMINDER:** 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 amendments modifying the amount Contractor is to be compensated will have correspondingly impacted 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 form if appropriate.

**Report is to be submitted with each pay application**

"General Decision Number: MO20220001 09/02/2022

Superseded General Decision Number: MO20210001

State: Missouri

Construction Types: Heavy and Highway

Counties: Missouri Statewide.

#### HEAVY AND HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.</li> </ul>
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	01/21/2022
2	02/04/2022



3	02/18/2022
4	02/25/2022
5	03/04/2022
6	04/01/2022
7	04/08/2022
8	04/22/2022
9	05/06/2022
10	05/27/2022
11	06/03/2022
12	06/10/2022
13	06/17/2022
14	07/29/2022
15	08/05/2022
16	09/02/2022

CARP0002-002 05/01/2022

ST. LOUIS COUNTY AND CITY

	Rates	Fringes
Carpenters.....	\$ 39.94	19.50
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CARP0005-006 05/01/2021		

CASS (Richards-Gebauer AFB ONLY), CLAY, JACKSON, PLATTE AND RAY COUNTIES

	Rates	Fringes
Carpenters:		
CARPENTERS & LATHERS.....	\$ 41.37	18.90
MILLWRIGHTS & PILEDRIVERS...	\$ 41.37	18.90
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CARP0011-001 05/01/2022		

	Rates	Fringes
Carpenter and Piledriver		
ADAIR, AUDRAIN (West of Hwy 19), BOONE, CALLAWAY, CHARITON, COLE, COOPER, HOWARD, KNOX, LINN, MACON, MILLER, MONITEAU, MONROE, OSAGE, PUTNAM, RANDOLPH, SCHUYLER, SHELBY AND SULLIVAN COUNTIES.....	\$ 34.06	19.20
ATCHISON, ANDREW, BATES, CALDWELL, CARROLL, DAVIESS, DEKALB, GENTRY, GRUNDY, HARRISON, HENRY, HOLT, LIVINGSTON, MERCER, NODAWAY, ST. CLAIR, SALINE AND WORTH COUNTIES.....	\$ 32.43	19.20
AUDRAIN (East of Hwy.19), RALLS, MARION, LEWIS, CLARK AND SCOTLAND COUNTIES.	\$ 34.07	19.20
BARRY, BARTON, CAMDEN, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE, HICKORY, JASPER, LACLEDE, LAWRENCE, MCDONALD, NEWTON, OZARK, POLK, STONE, TANEY, VERNON,		

WEBSTER AND WRIGHT COUNTIES..\$ 32.00	19.20
BENTON, MORGAN AND PETTIS...\$ 32.48	19.20
BOLLINGER, BUTLER, CAPE GIRARDEAU, DUNKLIN, MISSISSIPPI, NEW MADRID, PEMISCOT, PERRY, STE. GENEVIEVE, SCOTT, STODDARD AND WAYNE COUNTIES.....\$ 33.90	19.20
BUCHANAN, CLINTON, JOHNSON AND LAFAYETTE COUNTIES.....\$ 33.20	19.20
CARTER, HOWELL, OREGON AND RIPLEY COUNTIES.....\$ 32.77	19.20
CRAWFORD, DENT, GASCONADE, IRON, MADISON, MARIES, MONTGOMERY, PHELPS, PULASKI, REYNOLDS, SHANNON AND TEXAS COUNTIES.....\$ 33.89	19.20
FRANKLIN COUNTY.....\$ 37.59	19.20
JEFFERSON AND ST. CHARLES COUNTIES.....\$ 39.94	19.50
LINCOLN COUNTY.....\$ 35.91	19.20
PIKE, ST. FRANCOIS AND WASHINGTON COUNTIES.....\$ 34.74	19.20
WARREN COUNTY.....\$ 36.38	19.20

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ELEC0001-002 05/31/2020

BOLLINGER, BUTLER, CAPE GIRARDEAU, CARTER, DUNKLIN, FRANKLIN,  
IRON, JEFFERSON, LINCOLN, MADISON, MISSISSIPPI, NEW MADRID,  
PEMISCOT, PERRY, REYNOLDS, RIPLEY, ST. CHARLES, ST. FRANCOIS,  
ST. LOUIS (City and County), STE. GENEVIEVE, SCOTT, STODDARD,  
WARREN, WASHINGTON AND WAYNE COUNTIES

	Rates	Fringes
Electricians.....\$ 40.61		27.06

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ELEC0002-001 01/01/2022

ADAIR, AUDRAIN, BOONE, CALLAWAY, CAMDEN, CARTER, CHARITON,  
CLARK, COLE, COOPER, CRAWFORD, DENT, FRANKLIN, GASCONADE,  
HOWARD, HOWELL, IRON, JEFFERSON, KNOX, LEWIS, LINCON, LINN,  
MACON, MARIES, MARION, MILLER, MONITEAU, MONROE, MONTGOMERY,  
MORGAN, OREGON, OSAGE, PERRY, PHELPS, PIKE, PULASKI, PUTNAM,  
RALLS, RANDOLPH, REYNOLDS, RIPLEY, ST. CHARLES, ST. FRANCOIS,  
ST. LOUIS (City and County), STE. GENEVIEVE, SCHUYLER,  
SCOTLAND, SHANNON, SHELBY, SULLIVAN, TEXAS, WARREN AND  
WASHINGTON COUNTIES

	Rates	Fringes
Line Construction:		
Equipment Operator.....\$ 42.67		22.58
Groundman & Truck Driver....\$ 32.60		18.90
Lineman & Cable Splicer.....\$ 49.71		25.15

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ELEC0053-004 08/01/2021

	Rates	Fringes
Line Construction: (ANDREW, ATCHINSON, BARRY, BARTON, BUCHANAN, CALDWELL, CEDAR,		

CHRISTIAN, CLINTON, DADE,  
DALLAS, DAVIES,, DEKALB,  
DOUGLAS, GENTRY, GREENE,  
GRUNDY, HARRISON, HICKORY,  
HOLT, JASPER, LACLEDE,  
LAWRENCE, LIVINGSTON,  
MCDONALD, MERCER, NEWTON,  
NODAWAY, OZARK, POLK, ST.  
CLAIR, STONE, TANEY, VERNON,  
WEBSTER, WORTH AND WRIGHT  
COUNTIES)

Groundman Powderman.....	\$ 33.58	18.34
Groundman.....	\$ 31.33	17.60
Lineman Operator.....	\$ 45.60	22.48
Lineman.....	\$ 50.31	24.11

Line Construction; (BATES,  
BENTON, CARROLL, CASS, CLAY,  
HENRY, JACKSON, JOHNSON,  
LAFAYETTE, PETTIS, PLATTE,  
RAY AND SALINE COUNTIES)

Groundman Powderman.....	\$ 33.58	18.34
Groundman.....	\$ 31.33	17.60
Lineman Operator.....	\$ 45.60	22.48
Lineman.....	\$ 50.31	24.11

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ELEC0095-001 06/01/2020

BARRY, BARTON, CEDAR, DADE, JASPER, LAWRENCE, MCDONALD, NEWTON,  
ST CLAIR, AND VERNON COUNTIES

	Rates	Fringes
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Electricians:

Cable Splicers.....	\$ 25.40	12.19
Electricians.....	\$ 27.43	17.44

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ELEC0124-007 09/28/2021

BATES, BENTON, CARROLL, CASS, CLAY, COOPER, HENRY, JACKSON,  
JOHNSON, LAFAYETTE, MORGAN, PETTIS, PLATTE, RAY AND SALINE  
COUNTIES:

	Rates	Fringes
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Electricians.....	\$ 41.79	23.67
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ELEC0257-003 03/01/2021

AUDRAIN (Except Cuivre Township), BOONE, CALLAWAY, CAMDEN,  
CHARITON, COLE, CRAWFORD, DENT, GASCONADE, HOWARD, MARIES,  
MILLER, MONITEAU, OSAGE, PHELPS AND RANDOLPH COUNTIES

	Rates	Fringes
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Electricians:

Cable Splicers.....	\$ 30.42	16.085
Electricians.....	\$ 34.60	16.38

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ELEC0350-002 12/01/2021

ADAIR, AUDRAIN (East of Highway 19), CLARK, KNOX, LEWIS, LINN,  
MACON, MARION, MONROE, MONTGOMERY, PIKE, PUTNAM, RALLS,

## SCHUYLER, SCOTLAND, SHELBY AND SULLIVAN COUNTIES

	Rates	Fringes
Electricians.....	\$ 34.50	18.71
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ELEC0453-001 09/01/2020		

	Rates	Fringes
Electricians:		
CHRISITAN, DALLAS,		
DOUGLAS, GREENE, HICKORY,		
HOWELL, LACLEDE, OREGON,		
OZARK, POLK, SHANNON,		
WEBSTER and WRIGHT COUNTIES..	\$ 28.10	15.81
PULASKI and TEXAS COUNTIES..	\$ 32.76	16.27
STONE and TANEY COUNTIES....	\$ 23.89	14.99
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ELEC0545-003 06/01/2022		

ANDREW, BUCHANAN, CLINTON, DEKALB, ATCHISON, HOLT, MERCER,  
GENTRY, HARRISON, DAVIESS, GRUNDY, WORTH, LIVINGSTON, NODAWAY,  
AND CALDWELL COUNTIES

	Rates	Fringes
Electricians:.....	\$ 36.00	16.39
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ELEC0702-004 12/30/2019		

BOLLINGER, BUTLER, CAPE GIRARDEAU, DUNKLIN, MADISON,  
MISSISSIPPI, NEW MADRID, PEMISCOT, SCOTT, STODDARD AND WAYNE  
COUNTIES

	Rates	Fringes
Line Construction:		
Groundman - Class A.....	\$ 30.31	29% + 7.75
Groundman-Equipment		
Operator Class II (all		
other equipment).....	\$ 38.46	29% + 7.75
Heavy-Equipment Operator		
Class I (all crawler type		
equipment D-4 and larger)...	\$ 43.88	29% + 7.75
Lineman.....	\$ 53.51	29% + 7.75
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ENGI0101-001 05/01/2020		

ANDREW, ATCHISON, BATES, BENTON, BUCHANAN, CALDWELL, CARROLL,  
CHARITON, CLINTON, COOPER, DAVIESS, DEKALB, GENTRY, GRUNDY,  
HARRISON, HENRY, HOLT, HOWARD, JOHNSON, LAFAYETTE, LINN,  
LIVINGSTON, MERCER, NODAWAY, PETTIS, SALINE, SULLIVAN AND WORTH  
COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 34.73	18.20
GROUP 2.....	\$ 34.33	18.20
GROUP 3.....	\$ 32.33	18.20

## POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Asphalt roller operator, finish; asphalt paver and spreader; asphalt plant operator; auto grader or trimmer or sub-grader; backhoe; blade operator (all types); boilers - 2; booster pump on dredge; bulldozer operator; boring machine (truck or crane mounted); clamshell operator; concrete mixer paver; concrete plant operator; concrete pump operator; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill cat with compressor mounted (self-contained) or similar type self-propelled rotary drill (not air tract); drilling or boring machine (rotary-self-propelled); finishing machine operator; greaser; high loader-fork lift-skid loader (all types); hoisting engineer (2 active drums); locomotive operator (standard gauge); mechanics and welders (field and plants); mucking machine operator; pile drive operator; pitman crane or boom truck (all types); push cat; quad track; scraper operators (all types); shovel operator; sideboom cats; side discharge spreader; skimmer scoop operators; slip form paver operator (CMI, Rex, Gomeco or equal); la tourneau rooter (all tiller types); tow boat operator; truck crane; wood and log chippers (all types).

GROUP 2: A-frame truck operator; articulated dump truck; back filler operator; boilers (1); chip spreader; churn drill operator; compressor; concrete mixer operator, skip loader; concrete saws (self-propelled); conveyor operator; crusher operator; distributor operator; elevating grader operator; farm tractor (all attachments); fireman rig; float operator; form grade operator; hoisting engine (one drum); maintenance operator; multiple compactor; pavement breaker, self-propelled hydra-hammer (or similar type); paymill operator; power shield; pumps; roller operator (with or without blades); screening and washing plant; self-propelled street broom or sweeper; siphons and jets; straw blower; stump cutting machine; siphons and jets; tank car heater operator (combination boiler and booster); welding machine; vibrating machine operator (not hand held); welding machine.

GROUP 3: (a) Oiler;  
                   (b) Oiler driver  
                   (c) Mechanic.

## HOURLY PREMIUMS:

THE FOLLOWING CLASSIFICATIONS SHALL RECEIVE (\$ .25) ABOVE GROUP 1 RATE: Dragline operator - 3 yds. & over; shovel 3 yds. & over; clamshell 3 yds. & over; Crane, rigs or piledrivers, 100' of boom or over (incl. jib.), hoist - each additional active drum over 2 drums

THE FOLLOWING CLASSIFICATIONS SHALL RECEIVE (\$ .50) ABOVE GROUP 1 RATE: Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. jib.)

THE FOLLOWING CLASSIFICATIONS SHALL RECEIVE (\$ .75) ABOVE GROUP 1 RATE: Crane rigs, or piledrivers 200 ft. of boom or over (including jib.)

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 ENGI0101-005 04/01/2022

## CASS, CLAY, JACKSON, PLATTE AND RAY COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 38.42	20.44
GROUP 2.....	\$ 37.38	20.44
GROUP 3.....	\$ 32.91	20.44
GROUP 4.....	\$ 36.26	20.44

## POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Asphalt roller operator, finish; asphalt paver and spreader; asphalt plant operator; auto grader or trimmer or sub-grader; backhoe; blade operator (all types); boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; concrete cleaning decontamination machine operator; concrete mixer paver; concrete plant operator; concrete pump operator; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted (self-contained) or similar type self propelled rotary drill (not air tract); drilling or boring machine (rotary - self-propelled); finishing machine operator; greaser; heavy equipment robotics operator/mechanic; horizontal directional drill operator; horizontal directional drill locator; loader-forklift - skid loader (all types); hoisting engineer (2 active drums); locomotive operator (standard guage); master environmental maintenance mechanic; mechanics and welders (field and plants); mucking machine operator; piledrive operator; pitman crane or boom truck (all types); push cat; quad-track; scraper operators (all types); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip-form paver (CMI, REX, Gomaco or equal); la tourneau rooter (all tiller types); tow boat operator; truck crane; ultra high pressure waterjet cutting tool system operator/mechanic; vacuum blasting machine operator/mechanic; wood and log chippers (all types)

GROUP 2: "A" Frame truck operator; back filler operator; boilers (1); chip spreader; churn drill operator; concrete mixer operator, skip loader; concrete saws (self-propelled); conveyor operator; crusher operator; distributor operator; elevating grader operator; farm tractor (all attachments); fireman rig; float operator; form grader operator; hoisting engine (1 drum); maintenance operator; multiple compactor; pavement breaker, self-propelled hydra- hammer (or similar type); power shield; paymill operator; pumps; siphons and jets; stump cutting machine; tank car heater operator (combination boiler and booster); compressor; roller operator (with or without blades); screening and washing plant; self-propelled street broom or sweeper; straw blower; tank car heater operator (combination boiler and booster); vibrating machine operator (not hand held)

GROUP 3: Oilers

GROUP 4: Oiler Driver (All Types)

## FOOTNOTE:

HOURLY PREMIUMS FOLLOWING CLASSIFICATIONS SHALL RECEIVE (\$1.00) ABOVE GROUP 1 RATE:



Clamshells - 3 yd. capacity or over; Cranes or rigs, 80 ft. of boom or over (including jib); Draglines, 3 yd. capacity or over;  
 Piledrivers 80 ft. of boom or over (including jib);  
 Shovels & backhoes, 3 yd. capacity or over.

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 ENGI0101-022 05/01/2019

BARRY, BARTON, CAMDEN, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE, HICKORY, JASPER, LACLEDE, LAWRENCE, MCDONALD, NEWTON, OZARK, POLK, ST. CLAIR, STONE, TANEY, VERNON, WEBSTER AND WRIGHT COUNTIES and CITY OF SPRINGFIELD

	Rates	Fringes
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Power equipment operators:

GROUP 1.....	\$ 31.72	14.88
GROUP 2.....	\$ 31.37	14.88
GROUP 3.....	\$ 31.17	14.88
GROUP 4.....	\$ 29.12	14.88

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator - all types; boat operator - tow; boilers-2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launch hammer wheel; locomotive operator; - standard guage; mechanic and welders; mucking machine; off-road trucks; piledriver operator; pitman crane operator; push cat operator; quad trac; scoop operator - all types; shovel operator; sideboom cats; skimmer scoop operators; trenching machine operator; truck crane.

GROUP 2: A-frame; asphalt hot-mix silo; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant man; asphalt plant mixer operator; asphalt roller operator; backfiller operator; barber-greene loader; boat operator (bridges and dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker; powerbroom - self-propelled; power shield; rooter; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator (over 50 h.p.); winch truck.

GROUP 3: Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; sub-grading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler &

booster); tractor operator (50 h.p. or less); Ulmac, Ulric or similar spreader; vibrating machine operator, not hand;

GROUP 4: Grade checker; Oiler; Oiler-Driver

#### HOURLY PREMIUMS:

The following classifications shall receive \$ .25 above GROUP 1 rate:

Clamshells - 3 yds. or over; Cranes - Rigs or Piledrivers, 100 ft. of boom or over (including jib); Draglines - 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels - 3 yds. or over;

The following classifications shall receive \$ .50 above GROUP 1 rate:

Tandem scoop operator; Cranes - Rigs or Piledrivers, 150 ft. to 200 ft. of boom (including jib); Tandem scoop.

The following classifications shall receive \$ .75 above GROUP 1 rate:

Cranes - Rigs or Piledrivers, 200 ft. of boom or over (including jib.).

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ENGI0513-004 05/05/2022

FRANKLIN, JEFFERSON, LINCOLN, ST CHARLES, AND WARREN COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 38.36	28.93
GROUP 2.....	\$ 38.36	28.93
GROUP 3.....	\$ 37.06	28.93
GROUP 4.....	\$ 36.61	28.93

#### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Backhoe, Cable; Backhoe, Hydraulic (2 cu yds bucket and under regardless of attachment, one oiler for 2 or 3, two oilers for 4 through 6); Backhoe, Hydraulic over 2 cu yds; Cableway; Crane, Crawler or Truck; Crane, Hydraulic - Truck or Cruiser mounted, 16 tons and over; Crane, Locomotive; crane with boom including jib over 100 ft from pin to pin; Crane using rock socket tool; Derrick, Steam; Derrick Car and Derrick Boat; Dragline, 7 cu yds and over; Dredge; Gradall, Crawler or tire mounted; Locomotive, Gas, Steam & other powers; Pile Driver, Land or Floating; Scoop, Skimmer; Shovel, Power (Electric, Gas, Steam or other powers); Shovel, Power (7 cu yds and over); Switch Boat; Whirley; Air Tugger with air compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader, self-propelled; Backfilling Machine; Boat Operator - Push Boat or Tow Boat (job site); Boiler, High Pressure Breaking in Period; Boom Truck, Placing or Erecting; Boring Machine, Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer (such as Mixermobile); Compressor, Two 125 CFM and under; Compressor, Two through Four over 125 CFM; Compressor when operator runs throttle; Concrete Breaker (Truck or Tractor mounted); Concrete Pump (such as Pumpcrete machine); Concrete Saw (self-propelled); Concrete Spreader; Conveyor, Large (not selfpropelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Climbing (such as Linden); Crane,

Hydraulic - Rough Terrain, self-propelled; Crane, Hydraulic - Truck or Cruiser mounted - under 16 tons; Drilling machine - Self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jackhammers and Barco equipment no engineer required); Elevating Grader; Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled oscillating screed; Forklift; Generators, Two through Six 30 KW or over; Grader, Road with power blade; Greaser; Highlift; Hoist, Concrete and Brick (Brick cages or concrete skips operating on tower, Towermobile, or similar equipment); Hoist, Three or more drums in use; Hoist, Stack; Hydro-Hammer; Lad-A-Vator, hoisting brick or concrete; Loading Machine such as Barber-Greene; Mechanic on job site

GROUP 2: Air Tugger with plant air; Boiler (for power or heating shell of building or temporary enclosures in connection with construction work); Boiler, Temporary; Compressor, One over 125 CFM; Compressor, truck mounted; Conveyor, Large (not self-propelled); Conveyor, Large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine; Ditch Paving Machine; Elevator (outside); Endless Chain Hoist; Fireman (as required); Form Grader; Hoist, One Drum regardless of size (except brick or concrete); Lad-A-Vator, other hoisting; Manlift; Mixer, Asphalt, over 8 cu ft capacity; Mixer, one bag capacity or less; Mixer, without side loader, two bag capacity or more; Mixer, with side loader, regardless of size, not Paver; Mud Jack (where mud jack is used in conjunction with an air compressor, operator shall be paid \$ .55 per hour in addition to his basic hourly rate for covering both operations); Pug Mill operator; Pump, Sump - self powered, automatic controlled over 2"; Scissor Lift (used for hoisting); Skid Steer Loader; Sweeper, Street; Tractor, small wheel type 50 HP and under with grader blade and similar equipment; Welding Machine, One over 400 amp; Winch, operating from truck

GROUP 3: Boat operator - outboard motor, job site; Conveyors (such as Con-Vay-It) regardless of how used; Elevator (inside); Heater operator, 2 through 6; Sweeper, Floor

GROUP 4: Crane type

#### HOURLY PREMIUMS:

Backhoe, Hydraulic 2 cu yds or less without oiler - \$2.00;  
 Crane, climbing (such as Linden) - \$.50;  
 Crane, Pile Driving and Extracting - \$ .50  
 Crane with boom (including job) over  
 100 ft from pin to pin - add \$.01 per foot  
 to maximum of \$4.00);  
 Crane, using rock socket tool - \$ .50;  
 Derrick, diesel, gas or electric hoisting material  
 and erecting steel (150 ft or more above ground) - \$ .50;  
 Dragline, 7 cu yds and over - \$ .50;  
 Hoist, Three or more drums in use - \$ .50;  
 Scoop, Tandem - \$.50;  
 Shovel, Power - 7 cu yds and over - \$ .50;  
 Tractor, Tandem Crawler - \$ .50;  
 Tunnel, man assigned to work in tunnel or  
 tunnel shaft - \$ .50;  
 Wrecking, when machines are working on  
 second floor or higher - \$ .50

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 ENGI0513-006 05/01/2022

ADAIR, AUDRAIN, BOLLINGER, BOONE, BUTLER, CALLAWAY, CAPE  
 GIRARDEAU, CARTER, CLARK, COLE, CRAWFORD, DENT, DUNKLIN,  
 GASCONADE, HOWELL, IRON, KNOX, LEWIS, MACON, MADISON, MARIES,  
 MARION, MILLER, MISSISSIPPI, MONITEAU, MONROE, MONTGOMERY,  
 MORGAN, NEW MADRID, OREGON, OSAGE, PEMISCOT, PERRY, PHELPS,  
 PIKE, PULASKI, PUTNAM, RALLS, RANDOLPH, REYNOLDS, RIPLEY, ST.  
 FRANCOIS, STE. GENEVIEVE, SCHUYLER, SCOTLAND, SCOTT, SHANNON,  
 SHELBY, STODDARD, TEXAS, WASHINGTON, AND WAYNE COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 33.24	28.75
GROUP 2.....	\$ 32.89	28.75
GROUP 3.....	\$ 32.69	28.75
GROUP 4.....	\$ 29.04	28.75

#### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Asphalt finishing machine & trench widening spreader, asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator tow; boiler two; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine 2 active drums; launchhammer wheel; locomotive operator standrad guage; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator.

GROUP 2: A-Frame; asphalt hot-mix silo; asphalt roller operator asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; concrete mixer operator skip loader; concrete plant operator; concrete pump operator; dredge oiler; elevating graded operator; fork lift; grease fleet; hoisting engine one; locomotive operator narrow guage; multiple compactor; pavement breaker; powerbroom self-propelled; power shield; rooter; slip-form finishing machine; stumpcutter machine; side discharge concrete spreader; throttleman; tractor operator (over 50 hp); winch truck; asphalt roller operator; crusher operator.

GROUP 3: Spreader box operator, self-propelled not asphalt; tractor operator (50 h.p. or less); boilers one; chip spreader (front man); churn drill operator; compressor over 105 CFM 2-3 pumps 4" & over; 2-3 light plant 7.5 KWA or any combination thereof; clef plane operator; compressor maintenance operator 2 or 3; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; riller operator other than high type asphalt; screening &

washing plant operator; siphons & jets; subgrading machine operator; tank car heater (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator; hydrobroom.

GROUP 4: Oiler; grout machine; oiler driver; compressor over 105 CFM one; conveyor operator one; maintenance operator; pump 4" & over one.

#### FOOTNOTE: HOURLY PREMIUMS

Backhoe hydraulic, 2 cu. yds. or under Without oiler - \$2.00  
 Certified Crane Operator - \$1.50;  
 Certified Hazardous Material Operator \$1.50;  
 Crane, climbing (such as Linden) - \$0.50;  
 Crane, pile driving and extracting - \$0.50;  
 Crane, with boom (including jib) over 100' from pin to pin add \$0.01 per foot to maximum of \$4.00;  
 Crane, using rock socket tool - \$0.50;  
 Derrick, diesel, gas or electric, hoisting material and erecting steel (150' or more above the ground) - \$0.50;  
 Dragline, 7 cu. yds, and over - \$0.50;  
 Hoist, three or more drums in use - \$0.50; Scoop, Tandem - \$0.50;  
 Shovel, power - 7 cu. yds. or more - \$0.50;  
 Tractor, tandem crawler - \$0.50;  
 Tunnel, man assigned to work in tunnel or tunnel shaft - \$0.50;  
 Wrecking, when machine is working on second floor or higher - \$0.50;

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 ENGI0513-007 05/05/2022

#### ST. LOUIS CITY AND COUNTY

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 38.36	28.93
GROUP 2.....	\$ 38.36	28.93
GROUP 3.....	\$ 37.06	28.93
GROUP 4.....	\$ 36.61	28.93

#### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Backhoe, cable or hydraulic; cableway; crane crawler or truck; crane, hydraulic-truck or cruiser mounted 16 tons & over; crane locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley.

GROUP 2: Air tugger w/air compressor; anchor-placing barge; asphalt spreader; atehy force feeder loader (self-propelled); backfilling machine; backhoe-loader; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bull- float; cherry picker; combination concrete hoist & mixer (such as mixer mobile); compressor (when operator runs throttle); concrete breaker (truck or tractor mounted); concrete pump, such as pump-crete machine; concrete saw (self-propelled),

concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered use for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jackhammers and barco equipment-no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift. greaser; hoist, stack, hydro-hammer; loading machine (such as barber-greene); machanic, on job site; mixer, pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant power, generating-job site; pumps, two through six self-powered over 2""; pumps, electric submersible, two through six, over 4""; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine automatic, automatic propelled; welding machines (gasoline or diesel) two through six; well drilling machine

GROUP 3: Conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete distributing) on floor level; mixer two or more mixers of one bag capacity or less; air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor (mounted on truck; curb finishing machine; ditch paving machine; elevator; endless chain hoist; form grader; hoist, one drum regardless of size; lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity, without side loader, 2 bag capacity or more; mixer, with side loader, regardless of size; pug mill operator; pump, sump-self-powered, automatic controlled over 2"" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); tractor, small wheel type 50 h.p. & under with grader blade & similar equipment; Oiler on dredge and on truck crane.

GROUP 4: Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardless of how used; sweeper, floor

#### HOURLY PREMIUMS:

Backhoe, hydraulic	
2 cu. yds. or under without oiler	\$2.00
Certified Crane Operator	1.50
Certified Hazardous Material Operator	1.50
Crane, climbing (such as Linden)	.50
Crane, pile driving and extracting	.50
Crane, with boom (including jib) over 100' (from pin to pin) add \$.01 per foot to maximum of	4.00
Crane, using rock socket tool	.50
Derrick, diesel, gas or electric, hoisting material and erecting steel (150' or more above ground)	.50
Dragline, 7 cu. yds. and over	.50
Hoist, three (3) or more drums in use	.50
Scoop, Tandem	.50
Shovel, power - 7 cu. yds. or more	.50

Tractor, tandem crawler	.50
Tunnel, man assigned to work in tunnel or tunnel shaft	.50
Wrecking, when machine is working on second floor or higher	.50

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 \* IRON0010-012 04/01/2022

Rates	Fringes
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Ironworkers:

ANDREW, BARTON, BENTON, CAMDEN, CEDAR, CHARITON, CHRISTIAN, COOPER, DADE, DALLAS, DAVIESS, DE KALB, GENTRY, GREENE, GRUNDY, HARRISON, HICKORY, HOLT, HOWARD, LACLEDE, LINN, LIVINGSTON, MERCER, MONITEAU, MORGAN, NODAWAY, PETTIS, POLK, PUTNAM, RANDLOPH, ST. CLAIR, SULLIVAN, TANEY, VERNON, WEBSTER, WRIGHT and WORTH Counties and portions of ADAIR, BOONE, MACON, MILLER and RANDOLPH Counties.....\$ 32.50	32.68
ATCHISON, BATES, BUCHANAN, CALDWELL, CARROLL, CASS, CLAY, CLINTON, HENRY, JACKSON, JOHNSON, LAFAYETTE, PETTIS, PLATTE, SALINE, AND RAY COUNTIES....\$ 35.50	32.68

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 IRON0321-002 08/01/2022

DOUGLAS, HOWELL and OZARK COUNTIES

Rates	Fringes
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Ironworker.....\$ 23.50	19.96
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 IRON0396-004 08/04/2021

ST. LOUIS (City and County), ST. CHARLES, JEFFERSON, IRON,  
FRANKLIN, LINCOLN, WARREN, WASHINGTON, ST. FRANCOIS, STE.  
GENEVIEVE, and REYNOLDS Counties; and portions of MADISON,  
PERRY, BOLLINGER, WAYNE, and CARTER Counties

Rates	Fringes
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Ironworker.....\$ 36.71	28.96
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 IRON0396-009 08/04/2021

AUDRAIN, CALLAWAY, COLE, CRAWFORD, DENT, GASCONADE, MARIES,  
MONTGOMERY, OSAGE, PHELPS, PIKE, PULASKI, TEXAS and WRIGHT  
Counties; and portions of BOONE, CAMDEN, DOUGLAS, HOWELL,  
LACLEDE, MILLER, MONROE, OREGON, SHANNON and RALLS Counties

Rates	Fringes
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Ironworker.....	\$ 32.24	28.96
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IRON0577-005 06/01/2022

ADAIR, CLARK, KNOX, LEWIS, MACON, MARION, MONROE, RALLS,  
SCHUYLER, SCOTLAND, AND SHELBY COUNTIES

Rates	Fringes
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Ironworker.....	\$ 28.80	25.05
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IRON0584-004 06/01/2022

BARRY, JASPER, LAWRENCE, MCDONALD, NEWTON AND STONE Counties

Rates	Fringes
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Ironworkers:.....	\$ 28.00	16.00
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\* IRON0782-003 08/01/2022

CAPE GIRARDEAU, MISSISSIPPI, NEW MADRID, SCOTT, & STODDARD  
Counties; and portions of BOLLINGER, BUTLER, CARTER, DUNKLIN,  
MADISON, PEMISCOT, PERRY, RIPLEY, and WAYNE Counties

Rates	Fringes
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Ironworkers:

Locks, Dams, Bridges and  
other major work on the  
Mississippi and Ohio River  
only.....

\$ 35.13	28.27
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All Other Work.....\$ 30.73	24.12
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LAB00042-003 03/02/2022

ST. LOUIS (City and County)

Rates	Fringes
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LABORER

Plumber Laborer.....	\$ 35.80	16.77
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LAB00042-005 03/02/2022

ST. LOUIS (City and County)

Rates	Fringes
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LABORER

Dynamiter, Powderman.....	\$ 35.80	16.77
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Laborers, Flaggers.....	\$ 35.80	16.77
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Wrecking.....	\$ 35.80	16.77
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LAB00110-005 05/01/2022

Jefferson and Washington Counties

Rates	Fringes
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LABORER (Jefferson County)

GROUP 1.....	\$ 34.49	15.42
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GROUP 2.....	\$ 35.09	15.42
LABORER (Washington County)		
GROUP 1.....	\$ 32.10	15.42
GROUP 2.....	\$ 32.10	15.42

## LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; toppler of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cable ties on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutment and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; stringline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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LAB00579-005 05/01/2022

	Rates	Fringes
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LABORER (ANDREW, ATCHISON,  
BUCHANAN, CALDWELL, CLINTON,  
DAVIESS, DEKALB, GENTRY,  
GRUNDY, HARRISON, HOLT,  
LIVINGSTON, MERCER, NODAWAY  
and WORTH COUNTIES.)

GROUP 1.....	\$ 28.29	16.34
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GROUP 2.....\$ 28.64	16.34
LABORER (BARRY, BARTON, BATES, BENTON, CAMDEN, CARROLL, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE, HENRY. HICKORY, JASPER, JOHNSON, LACLEDE, LAWRENCE, MCDONALD, MORGAN, NEWTON, OZARK, PETTIS, POLK, ST.CLAIR, SALINE, STONE, TANEY, VERNON, WEBSTER and WRIGHT COUNTIES)	
GROUP 1.....\$ 27.28	15.55
GROUP 2.....\$ 27.83	15.55
LABORER (LAFAYETTE COUNTY)	
GROUP 1.....\$ 28.83	15.80
GROUP 2.....\$ 29.18	15.80

#### LABORERS CLASSIFICATIONS

GROUP 1: General Laborers - Carpenter tenders; salamander tenders; loading trucks under bins; hoppers & conveyors; track men & all other general laborers; air tool operator; cement handler-bulk or sack; dump man on earth fill; georgie buggy man; material batch hopper man; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator, all work in connection with hydraulic or general dredging operations; puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); rubbing concrete; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river; ditchliners; pressure groutmen; caulker; chain or concrete saw; cliffscalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over (10) feet above ground; mortarmen on brick or block manholes; toxic and hazardous waste work.

GROUP 2: Skilled Laborers - Head pipe layer on sewer work; laser beam man; Jackson or any other similar tamp; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters; hot mastic kettleman; hot tar applicator; sandblasting and gunite nozzlemen; air tool operator in tunnels; screed man on asphalt machine; asphalt raker; barco tamper; churn drills; air track drills and all similar drills; vibrator man; stringline man for electronic grade control; manhole builders-brick or block; dynamite and powder men; grade checker.

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LAB00660-004 05/01/2022

Clark, Knox, Lewis, Marion, Pike, Ralls, Scotland, Shelby  
Counties

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 32.10	15.42
GROUP 2.....	\$ 32.10	15.42

#### LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; topper of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cabelee tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutment and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; strigline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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LAB00660-006 06/01/2022

Lincoln, Montgomery, St Charles and Warren Counties

Rates	Fringes
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LABORER (Common or General).....\$ 35.91 15.42

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LAB00662-001 05/01/2022

Callaway, Cole, Miller and Moniteau Counties

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 32.10	15.42
GROUP 2.....	\$ 32.10	15.42

#### LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; topper of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cabelee tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutement and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; strigline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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LAB00663-002 04/01/2022

CASS, CLAY, JACKSON, PLATTE AND RAY COUNTIES

	Rates	Fringes
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## LABORER

GROUP 1.....	\$ 33.05	16.81
GROUP 2.....	\$ 34.26	16.81

## LABORERS CLASSIFICATIONS

GROUP 1: General laborers, Carpenter tenders, salamander tenders, loading trucks under bins, hoppers and conveyors, track men and all other general laborers, air tool operator, cement handler (bulk or sack), chain or concrete saw, deck hands, dump man on earth fill, Georgie Buggies man, material batch hopper man, scale man, material mixer man (except on manholes), coffer dams, abutments and pier hole men working below ground, riprap pavers rock, black or brick, signal man, scaffolds over ten feet not self-supported from ground up, skipman on concrete paving, wire mesh setters on concrete paving, all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipelines, power tool operator, all work in connection with hydraulic or general dredging operations, straw blower nozzle man, asphalt plant platform man, chuck tender, crusher feeder, men handling creosote ties on creosote materials, men working with and handling epoxy material or materials (where special protection is required), topper of standing trees, batter board man on pipe and ditch work, feeder man on wood pulverizers, board and willow mat weavers and cable tiers on river work, deck hands, pile dike and revetment work, all laborers working on underground tunnels less than 25 feet where compressed air is not used, abutment and pier hole men working six (6) feet or more below ground, men working in coffer dams for bridge piers and footings in the river, ditchliners, pressure groutmen, caulker and chain or concrete saw, cliffscalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over (10) feet above ground, mortarmen on brick or block manholes, signal man.

GROUP 2: Skilled Laborer - spreader or screed man on asphalt machine, asphalt raker, grade checker, vibrator man, concrete saw over 5 hp., laser beam man, barco tamper, jackson or any other similar tamp, wagon driller, churn drills, air track drills and other similar drills, cutting torch man, form setters, liners and stringline men on concrete paving, curb, gutters and etc., hot mastic kettleman, hot tar applicator, hand blade operators, mortar men on brick or block manholes, sand blasting and gunnite nozzle men, rubbing concrete, air tool operator in tunnels, head pipe layer on sewer work, manhole builder (brick or block), dynamite and powder men.

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LAB00840-011 05/01/2022

Crawford, Dent, Franklin, Gasconade, Howell, Maries, Oregon,  
Osage, Phelps, Pulaski, Shannon and Texas Counties

	Rates	Fringes
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LABORER (Crawford, Dent,  
Gasconade, Howell, Maries,  
Oregon, Osage, Phelps,

Pulaski, Shannon and Texas  
Counties)

GROUP 1.....	\$ 32.10	15.42
GROUP 2.....	\$ 32.10	15.42
LABORER (Franklin County)		
GROUP 1.....	\$ 34.44	15.42
GROUP 2.....	\$ 35.04	15.42

LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; topper of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cabelee tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutement and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; strigline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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LAB00955-012 05/01/2022

Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon,  
Monroe, Putnam, Randolph, Schuyler and Sullivan Counties

Rates

Fringes



## LABORER

GROUP 1.....	\$ 32.10	15.42
GROUP 2.....	\$ 32.10	15.42

## LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; toppler of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cabelee tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutment and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; strigline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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LAB01104-005 05/01/2022

Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St Francois, Ste Genevieve, Stoddard and Wayne Counties

Rates	Fringes
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## LABORER

GROUP 1.....	\$ 32.10	15.42
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GROUP 2.....\$ 32.10

15.42

## LABORERS CLASSIFICATIONS

GROUP 1 - General laborer-flagman, carpenter tenders; salamander Tenders; Dump Man; Ticket Takers; loading trucks under bins, hoppers, and conveyors; track man; cement handler; dump man on earth fill; georgie buggy man; material batch hopper man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers rock, block or brick; scaffolds over ten feet not self-supported from ground up; skip man on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoling, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setters, puddlers (paving only); straw blower nozzle man; asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material; topper of standing trees; feeder man on wood pulverizers, board and willow mat weavers and cabelee tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 ft. where compressed air is not used; abutement and pier hole men working six (6) ft. or more below ground; men working in coffer dams for bridge piers and footing in the river; barco tamper; jackson or any other similar tamp; cutting torch man; liners, curb, gutters, ditch lines; hot mastic kettlemen; hot tar applicator; hand blade operator; mortar men or brick or block manholes; rubbing concrete, air tool operator under 65 lbs.; caulker and lead man; chain or concrete saw under 15 h.p.; signal Gan; Guard rail and sign erectors.

GROUP 2 - Skilled laborers - Vibrator man; asphalt raker; head pipe layer on sewer work; batterboard man on pipe and ditch work; cliff scalers working from bosun's chairs; scaffolds or platforms on dams or power plants over 10 ft. high; air tool operator over 65 lbs.; stringline man on concrete paving; sandblast man; laser beam man; wagon drill; churn drill; air track drill and all other similar type drills, gunite nozzle man; pressure grout man; screed man on asphalt; concrete saw 15 h.p. and over; grade checker; strigline man on electronic grade control; manhole builder; dynamite man; powder man; welder; tunnel man; waterblaster - 1000 psi or over; asbestos and/or hazardous waste removal and/or disposal

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 PAIN0002-002 09/01/2007

CLARK, FRANKLIN, JEFFERSON, LEWIS, LINCOLN, MARION, PIKE, RALLS, ST. CHARLES, ST. LOUIS (CITY & COUNTY), AND WARREN COUNTIES

	Rates	Fringes
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## Painters:

Brush and Roller; Taper.....	\$ 28.61	10.24
High work over 60 feet.....	\$ 29.11	10.24
Lead Abatement.....	\$ 29.36	10.24
Pressure Roller; High work		

under 60 ft.....	\$ 28.86	10.24
Spray & Abrasive Blasting; Water Blasting (Over 5000 PSI).....	\$ 30.61	10.24
Taper (Ames Tools & Bazooka).....	\$ 30.21	10.24

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PAIN0002-006 04/01/2020

ADAIR, AUDRAIN, BOONE, CALLAWAY, CHARITON, COLE, GASCONADE,  
HOWARD, KNOX, LINN, MACON, MONROE, MONTGOMERY, OSAGE, PUTNAM,  
RANDOLPH, SCHUYLER, SCOTLAND, SHELBY AND SULLIVAN COUNTIES and  
the City of Booneville.

	Rates	Fringes
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Painters:

Bridges, Dams, Locks or Powerhouses.....	\$ 26.64	13.98
Brush and Roll; Taping, Paperhanging.....	\$ 24.64	13.98
Epoxy or Any Two Part Coating; Sandblasting; Stage or other Aerial Work - Platforms over 50 feet high; Lead Abatement.....	\$ 25.64	13.98
Spray; Structural Steel (over 50 feet).....	\$ 24.64	13.98
Tapers using Ames or Comparable Tools.....	\$ 25.39	13.98

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PAIN0003-004 04/01/2019

CASS, CLAY, CLINTON, JACKSON, JOHNSON, LAFAYETTE, PLATTE & RAY  
COUNTIES

	Rates	Fringes
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Painters:

Bridgeman; Lead Abatement; Sandblast; Storage Bin & Tanks.....	\$ 33.41	17.76
Brush & Roller.....	\$ 30.54	17.76
Drywall.....	\$ 31.74	17.76
Paper Hanger.....	\$ 31.04	17.76
Stageman; Beltman; Steelman; Elevator Shaft; Bazooka, Boxes and Power Sander; Sprayman; Dipping...	\$ 32.41	17.76
Steeplejack.....	\$ 36.98	17.76

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PAIN0003-011 04/01/2019

BATES, BENTON, CALDWELL, CARROLL, COOPER, DAVIESS, GRUNDY,  
HARRISON, HENRY, LIVINGSTON, MERCER, MONITEAU, MORGAN, PETTIS &  
SALINE COUNTIES

	Rates	Fringes
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Painters:

Bridgeman; Lead Abatement; Sandblast; Storage Bin &		
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Tanks.....	\$ 26.73	17.76
Brush & Roller.....	\$ 24.43	17.76
Drywall.....	\$ 25.39	17.76
Paper Hanger.....	\$ 24.83	17.76
Stageman; Beltman; Steelman; Elevator Shaft; Bazooka, Boxes and Power Sander; Sprayman; Dipping...	\$ 26.35	17.76
Steeplejack.....	\$ 29.58	17.76

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PAIN0203-001 04/01/2012

BARRY, BARTON, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE,  
HICKORY, HOWELL, JASPER, LAWRENCE, MCDONALD, NEWTON, OZARK,  
POLK, ST. CLAIR, STONE, TANEY, VERNON, WEBSTER, and WRIGHT  
COUNTIES

	Rates	Fringes
Painters:		
Finisher.....	\$ 20.18	11.33
Painter.....	\$ 19.75	11.76
Sandblaster, High Man, Spray Man, Vinyl Hanger, Tool Operator.....	\$ 21.18	11.33

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PAIN1185-008 04/01/2022

CAMDEN, CRAWFORD, DENT, LACLEDE, MARIES, MILLER, PHELPS,  
PULASKI AND TEXAS COUNTIES

	Rates	Fringes
Painters:		
Brush and Roller.....	\$ 31.28	14.58
Floor Work.....	\$ 32.28	14.58
Lead Abatement.....	\$ 32.28	14.58
Spray.....	\$ 32.28	14.58
Structural Steel, Sandblasting and All Tank Work.....	\$ 33.28	14.58
Taping, Paperhanging.....	\$ 32.28	14.58

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PAIN1292-002 09/01/2021

BOLLINGER, BUTLER, CAPE GIRARDEAU, CARTER, DUNKLIN,  
MISSISSIPPI, NEW MADRID, OREGON, PEMISCOT, PERRY, REYNOLDS,  
RIPLEY, SCOTT, SHANNON, STODDARD and WAYNE COUNTIES

	Rates	Fringes
Painters:		
Bridges, Stacks & Tanks.....	\$ 33.46	14.53
Brush & Roller.....	\$ 27.96	14.53
Spray & Abrasive Blasting; Waterblasting (over 5000 PSI).....	\$ 29.96	14.53

Height Rates (All Areas):  
Over 60 ft. \$0.50 per hour.  
Under 60 ft. \$0.25 per hour.

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PAIN1292-003 09/01/2021

IRON, MADISON, ST. FRANCOIS, STE. GENEVIEVE and WASHINGTON  
COUNTIES

	Rates	Fringes
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Painters:

Bridges, Stacks & Tanks.....	\$ 33.46	14.53
Brush & Roller.....	\$ 27.96	14.53
Spray & Abrasive Blasting; Waterblasting (Over 5000 PSI).....	\$ 29.96	14.53

Height Rates (All Areas):

Over 60 ft. \$0.50 per hour

Under 60 ft. \$0.25 per hour.

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PAIN2012-001 04/01/2020

ANDREW, ATCHISON, BUCHANAN, DE KALB, GENTRY, HOLT, NODAWAY &  
WORTH COUNTIES

	Rates	Fringes
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Painters:

Brush & Roller.....	\$ 32.91	17.86
Sandblaster.....	\$ 34.41	17.86
Steeplejack.....	\$ 37.98	17.86

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PLAS0518-006 03/01/2022

BARRY, BARTON, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE,  
HICKORY, JASPER, LACLEDE, LAWRENCE, MCDONALD, NEWTON, OZARK,  
POLK, ST. CLAIR, STONE, TANEY, VERNON, WEBSTER, AND WRIGHT  
COUNTIES

	Rates	Fringes
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CEMENT MASON/CONCRETE FINISHER...	\$ 25.77	12.43
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PLAS0518-007 04/01/2022

CASS (Richards-Gebaur AFB only), CLAY, JACKSON, PLATTE AND RAY  
COUNTIES

	Rates	Fringes
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Cement Masons:.....	\$ 35.12	18.30
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PLAS0518-011 04/01/2022

ANDREW, ATCHISON, BATES, BUCHANNAN, CLINTON, DEKALB, GENTRY,  
HENRY, HOLT, JOHNSON, LAFAYETTE, NODAWAY & WORTH COUNTIES

	Rates	Fringes
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CEMENT MASON/CONCRETE FINISHER...	\$ 34.93	20.50
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 PLAS0527-001 04/01/2021

	Rates	Fringes
CEMENT MASON		
FRANKLIN, LINCOLN AND WARREN COUNTIES.....	\$ 34.79	19.58
JEFFERSON, ST. CHARLES COUNTIES AND ST. LOUIS (City and County).....	\$ 35.96	19.56

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PLAS0527-004 06/01/2021

CRAWFORD, DENT, IRON, MADISON, MARION, PHELPS, PIKE, PULASKI,  
 RALLS, REYNOLDS, ST. FRANCOIS, STE. GENEVIEVE, SHANNON, TEXAS,  
 WASHINGTON COUNTIES

	Rates	Fringes
CEMENT MASON.....	\$ 30.30	19.48

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PLAS0908-001 05/01/2021

BOLLINGER, BUTLER, CAPE GIRARDEAU, CARTER, DUNKLIN, HOWELL,  
 MISSISSIPPI, NEW MADRID, OREGON, PEMISCOT, PERRY, RIPLEY,  
 SCOTT, STODDARD, AND WAYNE COUNTIES

	Rates	Fringes
CEMENT MASON.....	\$ 30.30	17.53

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PLAS0908-005 05/01/2021

BENTON, CALDWELL, CALLAWAY, CAMDEN, CARROLL, COLE, DAVIESS,  
 GASCONADE, GRUNDY, HARRISON, LIVINGSTON, MACON, MARIES, MERCER,  
 MILLER, MONTGOMERY, MORGAN, OSAGE, PETTIS & SALINE COUNTIES

	Rates	Fringes
CEMENT MASON.....	\$ 30.30	17.53

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PLUM0008-003 06/01/2022

CASS, CLAY, JACKSON, JOHNSON, AND PLATTE COUNTIES

	Rates	Fringes
Plumbers.....	\$ 51.28	23.29

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PLUM0008-017 06/01/2022

BATES, BENTON, CARROLL, HENRY, LAFAYETTE, MORGAN, PETTIS, RAY,  
 ST. CLAIR, SALINE AND VERNON COUNTIES

	Rates	Fringes
Plumbers.....	\$ 51.28	23.29

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PLUM0045-003 08/01/2021

ANDREW, ATCHISON, BUCHANAN, CALDWELL, CLINTON, DAVIESS, DEKALB,  
GENTRY, HARRISON, HOLT, NODAWAY AND WORTH COUNTIES

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 39.80	25.05

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PLUM0178-003 11/01/2021

BARRY, CEDAR, CHRISTIAN, DADE, DALLAS, DOUGLAS, GREENE,  
HICKORY, LACLEDE, LAWRENCE, POLK, STONE, TANEY, WEBSTER AND  
WRIGHT COUNTIES

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 34.25	15.32

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PLUM0178-006 11/01/2021

BARTON, JASPER, MCDONALD AND NEWTON COUNTIES

	Rates	Fringes
Plumbers and Pipefitters		
Projects \$750,000 & under...	\$ 31.28	15.32
Projects over \$750,000.....	\$ 34.25	15.32

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PLUM0533-004 06/01/2022

BATES, BENTON, CARROLL, CASS, CLAY, HENRY, HICKORY, JACKSON,  
JOHNSON, LAFAYETTE, MORGAN, PETTIS, PLATTE, RAY, SALINE, ST.  
CLAIR AND VERNON COUNTIES

	Rates	Fringes
Pipefitters.....	\$ 51.43	23.35

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PLUM0562-004 07/01/2022

ADAIR, AUDRAIN, BOLLINGER, BOONE, BUTLER, CALLAWAY, CAMDEN, CAPE  
GIRARDEAU, CARTER, CHARITON, CLARK, COLE, COOPER, CRAWFORD,  
DENT, DUNKLIN, FRANKLIN, GASCONADE, GRUNDY, HOWARD, HOWELL,  
IRON, JEFFERSON, KNOX, LEWIS, LINCOLN, LINN, LIVINGSTON, MACON,  
MADISON, MARIES, MARION, MERCER, MILLER, MISSISSIPPI, MONITEAU,  
MONROE, MONTGOMERY, NEW MADRID, OREGON, OSAGE, PEMISCOTT,  
PERRY, PHELPS, PIKE, PULASKI, PUTNAM, RALLS, RANDOLPH,  
REYNOLDS, RIPLEY, ST. CHARLES, ST. FRANCOIS, STE. GENEVIEVE, ST.  
LOUIS, SCHUYLER, SCOTLAND, SCOTT, SHANNON, SHELBY, STODDARD,  
SULLIVAN, TEXAS, WARREN, WASHINGTON, AND WAYNE COUNTIES.

	Rates	Fringes
Plumbers and Pipefitters		
Mechanical Contracts		
including all piping and		
temperature control work		
\$7.0 million & under.....	\$ 44.66	21.49
Mechanical Contracts		
including all piping and		
temperature control work		
over \$7.0 million.....	\$ 44.66	21.49



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 PLUM0562-016 07/01/2022

CAMDEN, COLE, CRAWFORD, FRANKLIN, JEFFERSON, MARIES, MILLER,  
 MONITEAU, OSAGE, PHELPS, PULASKI, ST. CHARLES, ST. LOUIS (City  
 and County), WARREN and WASHINGTON COUNTIES

	Rates	Fringes
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Plumbers

Mechanical Contracts including all piping and temperature control work \$7.0 million & under.....	\$ 44.66	21.49
Mechanical Contracts including all piping and temperature control work over \$7.0 million.....	\$ 44.66	21.49

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 TEAM0013-001 05/01/2022

	Rates	Fringes
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Truck drivers (ADAIR, BUTLER,  
 CLARK, DUNKIN, HOWELL, KNOX,  
 LEWIS, OREGON, PUTNAM,  
 RIPLEY, SCHUYLER AND SCOTLAND  
 COUNTIES)

GROUP 1.....	\$ 32.44	14.75
GROUP 2.....	\$ 32.60	14.75
GROUP 3.....	\$ 32.59	14.75
GROUP 4.....	\$ 32.71	14.75

Truck drivers (AUDRAIN,  
 BOLLINGER, BOONE, CALLAWAY,  
 CAPE GIRARDEAU, CARTER, COLE,  
 CRAWFORD, DENT, GASCONADE,  
 IRON, MACON, MADISON, MARIES,  
 MARION, MILLER, MISSISSIPPI,  
 MONROE, MONTGOMERY, NEW  
 MADRID, OSAGE, PEMISCOT,  
 PERRY, PHELPS, PIKE, PULASKI,  
 RALLS, REYNOLDS, ST.  
 FRANCOIS, STE. GENEVIEVE,  
 SCOTT, SHANNON, SHELBY,  
 STODDARD, TEXAS, WASHINGTON  
 AND WAYNE COUNTIES)

GROUP 1.....	\$ 33.17	14.75
GROUP 2.....	\$ 33.33	14.75
GROUP 3.....	\$ 33.32	14.75
GROUP 4.....	\$ 33.44	14.75

Truck drivers (FRANKLIN,  
 JEFFERSON and ST. CHARLES  
 COUNTIES)

GROUP 1.....	\$ 35.53	14.75
GROUP 2.....	\$ 35.64	14.75
GROUP 3.....	\$ 35.68	14.75
GROUP 4.....	\$ 35.75	14.75

Truck drivers (LINCOLN and  
 WARREN COUNTIES)

GROUP 1.....	\$ 35.18	14.75
GROUP 2.....	\$ 34.29	14.75
GROUP 3.....	\$ 35.33	14.75
GROUP 4.....	\$ 34.40	14.75

## TRUCK DRIVERS CLASSIFICATIONS:

GROUP 1: Flat Bed Trucks, Single Axle; Station Wagons; Pickup Trucks; Material Trucks, Single Axle; Tank Wagon, Single Axle

GROUP 2: Agitator and Transit Mix Trucks

GROUP 3: Flat Bed Trucks, Tandem Axle; Articulated Dump Trucks; Material Trucks, Tandem Axle; Tank Wagon, Tandem Axle

GROUP 4: Semi and/or Pole Trailers; Winch, Fork & Steel Trucks; Distributor Drivers and Operators; Tank Wagon, Semi-Trailer; Insley Wagons, Dumpsters, Half-Tracks, Speedace, Euclids and other similar equipment; A-Frame and Derrick Trucks; Float or Low Boy

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TEAM0056-001 05/01/2020

	Rates	Fringes
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Truck drivers (ANDREW, BARTON, BATES, BENTON, CALDWELL, CAMDEN, CARROLL, CEDAR, CHARITON, CHRISTIAN, CLINTON, COOPER, DADE, DALLAS, DAVIESS, DEKALB, DOUGLAS, GREENE, HENRY, HICKORY, HOWARD, JASPER, LACLEDE, LAWRENCE, LINN, LIVINGSTON, MONITEAU, MORGAN, NEWTON, PETTIS, POLK, RANDOLPH, ST. CLAIR, SALINE, VERNON, WEBSTER AND WRIGHT COUNTIES)

GROUP 1.....	\$ 31.37	14.25
GROUP 2.....	\$ 31.53	14.25
GROUP 3.....	\$ 31.52	14.25
GROUP 4.....	\$ 31.64	14.25

Truck drivers: (ATCHISON, BARRY, GENTRY, GRUNDY, HARRISON, HOLT, MCDONALD, MERCER, NODAWAY, OZARK, STONE, SULLIVAN, TANEY AND WORTH COUNTIES)

GROUP 1.....	\$ 30.64	14.25
GROUP 2.....	\$ 30.80	14.25
GROUP 3.....	\$ 30.79	14.25
GROUP 4.....	\$ 30.91	14.25

Truck drivers; (BUCHANAN, JOHNSON AND LAFAYETTE COUNTIES)

GROUP 1.....	\$ 32.58	14.25
GROUP 2.....	\$ 32.69	14.25
GROUP 3.....	\$ 32.73	14.25
GROUP 4.....	\$ 32.80	14.25

## TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Flat bed trucks single axle; station wagons; pickup trucks; material trucks single axle; tank wagons single axle.

GROUP 2: Agitator and transit mix-trucks.

GROUP 3: Flat bed trucks tandem axle; articulated dump trucks; material trucks tandem axle; tank wagons tandem axle.

GROUP 4: Semi and/or pole trailers; winch, fork & steel trucks; distributor drivers & operators; tank wagons semi-trailer; insley wagons, dumpsters, half-tracks, speedace, euclids & other similar equipment; A-frames and derrick trucks; float or low boy.

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TEAM0245-001 03/26/2012

BARRY, BARTON, CAMDEN, CEDAR, CHRISTIAN, DALLAS, DENT, DOUGLAS, GREENE, HICKORY, HOWELL, JASPER, LACLEDE, LAWRENCE, MCDONALD, MILLER, NEWTON, OZARK, PHELPS, POLK, PULASKI, SHANNON, STONE, TANEY, TEXAS, VERNON, WEBSTER AND WRIGHT COUNTIES

	Rates	Fringes
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Truck drivers:

Traffic Control Service		
Driver.....	\$ 20.45	0.00

PAID HOLIDAYS: New Year's Day, Decoration Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day, employee's birthday and 2 personal days.

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TEAM0541-001 04/01/2022

CASS, CLAY, JACKSON, PLATTE AND RAY COUNTIES

	Rates	Fringes
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Truck drivers:

GROUP 1.....	\$ 34.71	16.75
GROUP 2.....	\$ 34.14	16.75
GROUP 3.....	\$ 33.62	16.75

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Mechanics and Welders, Field; A-Frame Low Boy-Boom truck Driver.

GROUP 2: Articulated Dump Truck; Insley Wagons: Dump Trucks, Excavating, 5 cu yds and over; Dumpsters; Half-Tracks: Speedace: Euclids & similar excavating equipment Material trucks, Tandem Two teams; Semi-Trailers; Winch trucks-Fork trucks; Distributor Drivers and Operators; Agitator and Transit Mix; Tank Wagon Drivers, Tandem or Semi; One Team; Station Wagons; Pickup Trucks; Material Trucks, Single Axle; Tank Wagon Drivers, Single Axle

GROUP 3: Oilers and Greasers - Field

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TEAM0682-002 05/01/2017

ST LOUIS CITY AND COUNTY

	Rates	Fringes
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## Truck drivers:

GROUP 1.....	\$ 33.30	13.79+a+b+c+d
GROUP 2.....	\$ 33.50	13.79+a+b+c+d
GROUP 3.....	\$ 33.60	13.79+a+b+c+d

a. PENSION: 5/1/2012 - \$182.20 per week.

b. HAZMAT PREMIUM: If Hazmat certification on a job site is required by a state or federal agency or requested by project owner or by the employer, employees on that job site shall receive \$1.50 premium pay.

## TRUCK DRIVERS CLASSIFICATIONS

GROUP 1 - Pick-up trucks; forklift, single axle; flatbed trucks; job site ambulance, and trucks or trailers of a water level capacity of 11.99 cu. yds. or less

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu yds. up to 22.0 cu yds. including euclids, speedace and similar equipment of same capacity and compressors

GROUP 3 - Trucks or trailers of a water level capacity of 22.0 cu. yds & over including euclids, speedace & all floats, flatbed trailers, boom trucks, winch trucks, including small trailers, farm wagons tilt-top trailers, field offices, tool trailers, concrete pumps, concrete conveyors & gasoline tank trailers and truck mounted mobile concrete mixers

## FOOTNOTE FOR TRUCK DRIVERS:

c. PAID HOLIDAYS: Christmas Day, Independence Day, Labor Day, Memorial Day, Veterans Day, New Years Day, Thanksgiving Day

d. PAID VACATION: 3 days paid vacation for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year. When such an employee has completed 3 years of continuous employment with the same employer and then works the above required number of hours, he shall receive double the number of days of vacation specified above. When such an employee has completed 10 years of continuous employment with the same employer and then works the above required number of hours, he shall receive triple the number of days of vacation specified above. When such an employee has completed 15 years of continuous employment with the same employer and then works the above required number of hours, he shall receive 4 times the number of days of vacation specified above.

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this

contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which

these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

---

#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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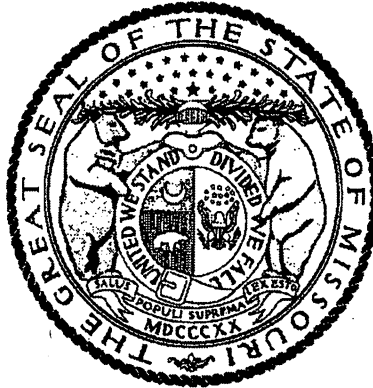
END OF GENERAL DECISIO"



# Missouri

## Division of Labor Standards

### WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

## Annual Wage Order No. 29

Section 048  
**JACKSON COUNTY**

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Todd Smith, Director  
Division of Labor Standards

Filed With Secretary of State: March 10, 2022

Last Date Objections May Be Filed: April 11, 2022

Prepared by Missouri Department of Labor and Industrial Relations

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$67.05
Boilermaker	\$37.33*
Bricklayer	\$59.20
Carpenter	\$60.21
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$54.35
Plasterer	
Communications Technician	\$58.66
Electrician (Inside Wireman)	\$66.21
Electrician Outside Lineman	\$64.01
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$37.33*
Glazier	\$56.84
Ironworker	\$66.35
Laborer	\$49.04
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$54.39
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$60.71
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$50.15
Plumber	\$74.12
Pipe Fitter	
Roofer	\$57.93
Sheet Metal Worker	\$71.70
Sprinkler Fitter	\$61.32
Truck Driver	\$47.50
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

Heavy Construction Rates for  
JACKSON County

Section 048

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$60.95
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$84.43
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$49.28
General Laborer	
Skilled Laborer	
Operating Engineer	\$58.78
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$50.64
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

# **OVERTIME and HOLIDAYS**

## **OVERTIME**

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, "**overtime work**" shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

## **HOLIDAYS**

January first;  
The last Monday in May;  
July fourth;  
The first Monday in September;  
November eleventh;  
The fourth Thursday in November; and  
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

## **THIS SHEET TO BE REMOVED PRIOR TO EXTERNAL DISTRIBUTION**

Meta Data: Update the fields below and they'll be updated throughout the document.

DBE Percentage: 0%

Project Name: Pkg 4 – 112 Tram Rail Expansion Joints

Bid Advertised Date: 12/8/2022

Bid Close Date: 1/10/2023 2:00 PM Local Time

Questions until: 12/22/2022 2:00 PM Local Time

PreBid Conference Sentence/Information: 12/21/2022 2pm Local Time; Link to TEAMS meeting – See Book 1, Section 02.01 for the hyperlink.

Project Bid Number: #F23-5001-39A

Buyer Name: Denise Adams

Buyer Email: dadams@kcata.org

Buyer Phone: 816-346-0224

Designer Name: HDR, Inc.

Designer Address and Contact Info: Nick Stadem, PE

10450 Holmes Rd Suite 600

Kansas City MO 64131

763-591-5444

KCATA PM Name: Linda Clark, PE

KCATA PM Email: lclark@kcata.org

Description of Work: Provide 112 Tram Rail Expansion joint suitable for crossing the Grand Avenue Viaduct in Kansas City, Missouri. The drawings showing (BATES 302490 and 302491) are conceptual in nature. The bidders are encouraged to modify these drawing to meet the intent of this early procurement package.

**PROJECT BID DOCUMENTS****Book 3****Pkg 4 – 112 Tram Rail Expansion Joints****KCATA PROJECT NUMBER: #F23-5001-39A****ISSUE DATE: 12/8/2022****BID CLOSE DATE: 1/10/2023 2:00 PM Local Time**

<b>OWNER:</b> Kansas City Area Transportation Authority 1200 E. 18 <sup>th</sup> Street Kansas City, Missouri 64108	<b>PROCUREMENT CONTACT:</b> Denise Adams 1350 E. 17 <sup>th</sup> Street Kansas City, MO 64108 Telephone: 816-346-0224 Email: dadams@kcata.org
<b>PROJECT MANAGEMENT OFFICE CONTACT:</b> Linda Clark, PE Kansas City Area Transportation Authority 1200 E. 18 <sup>th</sup> Street Kansas City, Missouri 64108 Email: lclark@kcata.org	<b>ENGINEER:</b> HDR, Inc. Nick Stadem, PE 10450 Holmes Rd Suite 600 Kansas City MO 64131 763-591-5444

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**REFERENCED DRAWINGS AND SPECIFICATIONS**

The following list of drawings for the project is provided as a reference for the bidder and is part of the bid set:

Plan Sheets	See BATES Numbered Sheets 302490 - 302491
Specifications	See BATES Numbered Sheets 302492 - 302502

## 01 GENERAL REQUIREMENTS

### 01.01 PROJECT

Project Owner: **KANSAS CITY AREA TRANSPORTATION AUTHORITY**

Project Title: **Pkg 4 – 112 Tram Rail Expansion Joints**

### 01.02 PROJECT DESCRIPTION

The proposed projects generally include:

Pkg 4 – 112 Tram Rail Expansion Joints

The scope of work of this procurement includes the following material packages:

Provide 112 Tram Rail Expansion joint suitable for crossing the Grand Avenue Viaduct in Kansas City, Missouri. The drawings showing (BATES 302490 and 302491) are conceptual in nature. The bidders are encouraged to modify these drawing to meet the intent of this early procurement package.

All work shall conform to these specifications and the specifications issued by the Kansas City Metropolitan Chapter of the American Public Works Association and such modifications as may be required by the KCATA. In case of discrepancy, these specifications shall govern.

This project will be known as: **Pkg 4 – 112 Tram Rail Expansion Joints**

The successful bidder shall furnish all necessary labor, materials, equipment, supplies, tools and supervision to accomplish the work called for in the contract in accordance with the plans and documents herein.

The project shall be accomplished under a single Unit Price Contract. Required work is not necessarily limited to the unit price items listed in the bid form. It is the intent of the drawings and specifications that the resulting improvements be fully completed, functional and ready for operation. The cost of work not specifically identified by a bid form unit price shall be included in provided unit price items.

Other than the noted optional switches above, KCATA does not anticipate adding or reducing the scope of work indicated in these bid packages.

### 01.03 STANDARD SPECIFICATIONS & DRAWINGS

01.03.01 The following standard specifications and drawings are hereby made part of these technical specifications and drawings by reference. All referenced specifications and drawings can be viewed, downloaded and/or ordered through the Kansas City Chapter of the American Public Works Association web site located at [kcmetro.apwa.net](http://kcmetro.apwa.net). Copies of the referenced specifications and drawings can also be made available to any prospective bidder upon request through the KCATA.

01.03.02 Unless otherwise indicated on the plans, the Standard Technical Specifications and Standard Drawings for this Project shall be referenced in the following order. Should a conflict between the Standard Specifications and Standard Drawings arise, the controlling references shall be (in order):

- (1) Kansas City Area Transportation Authority Standard Technical Specifications and Standard

Plans and Details shall be the controlling references for all Kansas City Area Transportation Authority owned installations.

- (2) The Kansas City Metropolitan Chapter of the American Public Works Association's latest DIVISION III STANDARD DRAWINGS and STANDARD SPECIFICATIONS AND DESIGN CRITERIA unless otherwise indicated on the plans.
- (3) The State Department of Transportation's Standard Specifications and Standard Drawings unless otherwise indicated on the plans.

## 02 PROJECT SPECIAL PROVISIONS

### 02.01 PROJECT SUMMARY

This Section is included to detail general and special work or programs which may be required. Some of the specifications or statements in this section may also be addressed elsewhere in the Project Manual. Any interpretation of conflicting statements will be adjudicated by the Project Manager.

Bids shall be submitted on the Proposal or Bid Form provided. Each line item shall be bid using the listed units and quantities. It is intended the cost of all work, required to complete the entire project, be included in the Proposal form. All required work not provided as a specific bid item shall be included in other bid items.

The Project shall be completed in accordance with the Federal Davis-Bacon Act. All field work shall meet current prevailing wage requirement.

### 02.02 ROLES AND RESPONSIBILITIES

Not applicable.

### 02.03 CONSTRUCTION SCHEDULE REQUIREMENTS

02.03.01 Schedule limitations and considerations (if applicable) are identified below.

- (1) Either change or keep the “no known” text below.
- (2) Schedule Considerations: No known schedule considerations.

02.03.02 Contract completion date shall be adjusted when adverse weather delays exceed the “anticipated adverse weather delay days” as outlined below:

January ..... 10	May ..... 7	September ..... 5
February ..... 8	June ..... 7	October ..... 4
March ..... 7	July ..... 5	November ..... 5
April ..... 6	August ..... 5	December ..... 9

02.03.03 Contractor shall provide monthly schedule and workforce documentation.

- (1) Key delivery dates - Contractor shall adhere to the following:

- (a) Submit detailed shop drawings for acceptance within four months of NTP
- (b) Deliver fabricated material within 20 months of NTP

**02.04 TECHNICAL SPECIAL PROVISIONS**

02.04.01 See BATES numbered sheets as outlined in PROJECT DESCRIPTION in Section 01.02 on Page 1

**02.05 SYSTEM INTEGRATION TESTING PLAN**

02.05.01 None

**02.06 EXTENDED WARRANTIES**

The Contractor shall be required to secure any extended or special riders to standard warranties that are required to comply with contract documents. See Section 03.10 on Page 30 of the General Provisions for additional Warranty Information.

**02.07 ANTICIPATED PERMITS**

02.07.01 No known.

## 03 GENERAL PROVISIONS

### 03.01 GENERAL REQUIREMENTS

#### 03.01.01 MOBILIZATION

- (1) Mobilization shall include costs of all work and items necessary to begin the project. These items include but may not be limited to: obtaining KCATA and City required bonds, paying for permits, additional insurance (if required), setting up a construction office, etc. If requested, the Contractor shall submit a breakdown of items included in Mobilization.

#### 03.01.02 ADMINISTRATION & MANAGEMENT

- (1) Administration & Management shall include costs of all work and items necessary to maintain the project. These items include but may not be limited to: Preparing and updating project schedule, preparation of shop drawing submittals, submittal of weekly payroll records, preparation of monthly payment applications and lien waivers, coordination with other contractors, coordination with utility companies, coordination with the KCATA's Project Management Office, attending progress meetings, etc. If requested, the Contractor shall submit a breakdown of items included in Administration & Management.

#### 03.01.03 USE OF THE SITE AND/OR RIGHT-OF-WAY

- (1) For this contract, the Contractor shall not have access to the use of Right-of-Way.

#### 03.01.04 CONSTRUCTION STAGING

- (1) Staging areas for loading and unloading of materials also requires pre-approval. Locations of trash dumpsters and pick-up and drop-off schedules must be coordinated with the KCATA and the City's Traffic Division.

**END OF SECTION**

## 03.02 CONTRACT CONSIDERATIONS

## 03.02.01 SCHEDULE OF VALUES

- (1) Submit a printed schedule on AIA Form G703 - Application and Certificate for Payment Continuation Sheet. Contractor's standard form or electronic media printout will be considered.
- (2) Submit Schedule of Values within fifteen (15) calendar days after date of KCATA-Contractor Agreement.
- (3) Format: Utilize the Bid Form of this Project Manual. Identify each line item with number and title of the major specification Section. Identify site mobilization including bonds and insurance.
- (4) Include in each line item, the amount of Allowances specified in this Section. For unit cost Allowances, identify quantities taken from Contract Documents multiplied by the unit cost to achieve the total for the item.
- (5) Include separately from within each line item, a direct proportional amount of Contractor's overhead and profit.
- (6) Revise schedule to list approved Change Orders, with each Application for Payment.
- (7) Include Engineering, material acquisition, and fabrication costs as separate line items if progress payment for these items will be requested.

## 03.02.02 APPLICATIONS FOR PAYMENT

- (1) Submit three copies of each application on AIA Form G702 - Application and Certificate for Payment and AIA G703 - Continuation Sheet.
- (2) Content and Format: Utilize Schedule of Values for listing items in Application for Payment.
- (3) Payment Period: One Month.
- (4) When KCATA Project Management Office requires substantiating information, submit data justifying dollar amounts in question within three (3) working days of the request.
- (5) Provide one copy of data with cover letter for each copy of submittal. Show application number and date, and line item by number and description.
- (6) Include the following with the application:
  - (a) Partial Conditional release of liens including all major Subcontractors and vendors. (KCATA Form)
  - (b) Payroll records for all contractors for previous month. (Contractor standard)
  - (c) Contractor Utilization Form (KCATA Form)



- (d) Affidavits attesting to off-site stored products. (KCATA Form)
  - (i) Requests for payment for material stored off site shall require verification of material be stored in a secure location separate from other projects and other material.
  - (ii) Owner verification of the above (at Contractor's expense)
- (e) Updated fabrication progress schedules, revised and current.

### 03.02.03 CHANGE PROCEDURES

- (1) The Contractor may submit a Request for Information (RFI) form to request substitutions, clarifications, or changes. The RFI will be reviewed by the KCATA and/or any applicable sub-consultants, and a response will be issued within ten (10) working days.
- (2) The KCATA, based upon its needs and preferences, may have established Add or Deduct Alternates for the project. The KCATA reserves the right to add or remove any alternate into or from the original base bid as the case may be.
- (3) The KCATA reserves the right to add or delete work from the contract if, in their sole opinion, it is in its best interest. The Contractor agrees to negotiate the desired work in good faith with the KCATA. Upon agreement, Contractor shall complete the work as agreed upon and in accordance with the project specifications.
- (4) If the KCATA chooses to remove proposed work items identified by line item in the bid form, the contract shall be deducted by the bid form amount. If field work on that item had begun or materials purchased and delivered, the KCATA and Contractor shall negotiate an appropriate adjustment to the line item cost.
- (5) The KCATA or their representative may issue Supplemental Design Instructions (SDI) to request minor changes or provide clarification in the Work not involving an adjustment to Contract Sum/Price or Contract Time
- (6) The KCATA may issue a Proposal Request which includes a detailed description of a proposed change with supplementary or revised Drawings and specifications, a change in Contract Time for executing the change with a stipulation of any overtime work required and the period of time during which the requested price will be considered valid. Contractor will prepare and submit a proposal within ten (10) working days.
- (7) Construction adjustments requiring time or cost changes to the contract must be processed as follows:
  - (a) The Contractor may propose changes by submitting a Change Order Request (COR) form to the KCATA, describing the proposed change and its full effect on the Work. Include a statement describing the reason for the change, and the effect on the Contract Sum/Price and Contract Time with full documentation and a statement describing the effect on Work by separate or other Contractors
  - (b) The KCATA or their representative shall approve the Change Order Request Form (COR) and execute a Construction Change Directive (CCD) form. A complete

description of the changes along with backup documentation (if appropriate) shall be provided. Once the CCD form is signed by authorized KCATA personnel, Contractor may commence with the work. The CCD does not allow for payment of the work.

- (c) The CCD's shall be formally incorporated into the contract by preparation and execution of a formal Change Order completed by the KCATA. Once the Change Order is executed, payment will be allowed to the Contractor for the work listed in the CCD.
  - (i) Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust the Contract Sum/Price.
  - (ii) Promptly revise progress schedules to reflect any change in Contract Time, revise sub-schedules to adjust times for other items of work affected by the change, and resubmit.
  - (iii) Promptly enter changes in Project Record Documents.
  - (iv) Execution of Change Orders: KCATA will issue Change Orders for signatures of parties as provided in the Conditions of the Contract.

#### 03.02.04 DEFECT ASSESSMENT

- (1) KCATA or their representative may inspect and evaluate all Work for defect assessment at any time.
- (2) Any Work, or portions of the Work, not conforming to specified requirements shall be either repaired or replaced at the discretion of the KCATA or their representative.
- (3) If, in the opinion of the KCATA, it is not practical to remove and replace the Work, the KCATA will direct one of the following remedies:
  - (a) The defective Work may remain, but the unit sum/price will be adjusted to a new sum/price reduced up to 50 percent at the discretion of the KCATA.
  - (a) The defective Work will be partially repaired according to the instructions of the KCATA, and the unit sum/price will be adjusted to a new sum/price reduced up to 50 percent at the discretion of the KCATA.
- (4) The individual specification sections may modify these options or may identify a specific formula or percentage sum/price reduction.
- (5) The authority of the KCATA to assess the defect and identify payment adjustment, is final.

#### 03.02.05 ALTERNATES

- (1) Submit alternatives identifying the effect on adjacent or related components.
- (2) Alternatives quoted on Bid Forms will be reviewed and accepted or rejected at the KCATA or the KCATA designated representative's option. Accepted alternates will be identified in the KCATA-Contractor Agreement.

- (3) Coordinate related work and modify surrounding work to integrate the Work of each alternative.

**END OF SECTION**

## 03.03 COORDINATION AND MEETINGS

## 03.03.01 CONTRACTOR'S RESPONSIBILITY

- (1) Contractor shall be responsible for coordinating all work with KCATA's representative who will be identified prior to commencement of work.

## 03.03.02 TIMELY COMPLETION

- (1) Contractors shall coordinate the Work with other contractors so that all work once started in a given area will be completed in that area as soon as possible with good workmanship.

## 03.03.03 COORDINATION AND PROJECT CONDITIONS

- (1) Coordinate scheduling, submittals, and Work of the various sections of the Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements.
- (2) If applicable, coordinate space requirements, supports, and installation of mechanical and electrical Work which are indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit, as closely as practicable; place runs parallel with lines of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
- (3) If applicable, in finished areas, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
- (4) Coordinate completion and clean-up of Work for Substantial Completion.
- (5) Coordinate access to site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of KCATA's activities and public.

## 03.03.04 PRECONSTRUCTION MEETING

- (1) If requested by the KCATA, KCATA designated representative, or Contractor, a pre-construction conference will be held within fifteen (15) calendar days following receipt of the Notice to Proceed.
- (2) Attendance Required: Attendees shall include Contractor, key Subcontractors, KCATA project manager, or their designated representative, and Architect/Engineer.
- (3) Agenda will be provided by KCATA Project Management Office (PMO) prior to pre-construction conference. The agenda will include the following items at a minimum:
  - (a) Designation of personnel representing the parties in Contract, and the KCATA.
  - (b) Submission of list of Subcontractor's, list of Products, schedule of values, and progress schedule.
  - (c) Procedures and processing of field decisions, submittals, substitutions, applications

for payments, proposal request, Change Orders, and Contract close-out procedures.

- (d) Coordination of Construction Scheduling.
- (e) Project special provisions.
- (4) The construction layout, construction scheduling as described hereinafter, and other pertinent aspects of the project will be discussed.
- (5) Contractor shall record minutes and distribute copies within two (2) working days after meeting to all participants, KCATA PMO, and those affected by decisions made.

#### 03.03.05 SITE MOBILIZATION MEETING

- (1) If requested, the KCATA will schedule a meeting at the Project site prior to Contractor occupancy.
- (2) Attendance Required: KCATA project manager, Architect/Engineer, Contractor, Contractor's Superintendent, and major Subcontractors.
- (3) Agenda:
  - (a) Use of premises by KCATA and Contractor.
  - (b) KCATA's requirements.
  - (c) Construction facilities and controls provided by KCATA.
  - (d) Temporary utilities provided by KCATA.
  - (e) Survey and layout.
  - (f) Safety, security and housekeeping procedures.
  - (g) Schedules.
  - (h) Application for payment procedures.
  - (i) Procedures for testing.
  - (j) Procedures for maintaining record documents.
  - (k) Requirements for start-up of equipment.
  - (l) Inspection and acceptance of equipment put into service during construction period.
- (4) Record minutes and distribute copies within two (2) working days after meeting to all participants, KCATA PMO, and those affected by decisions made.

#### 03.03.06 PROGRESS MEETINGS

- (1) If the project warrants, and the KCATA or Contractor requests, the Contractor shall

Schedule and administer meetings throughout progress of the Work at intervals acceptable to the KCATA.

- (2) Contractor shall make arrangements for meetings, prepare agenda with copies for participants and preside at meetings.
- (3) Attendance Required: Job superintendent, major Subcontractors and suppliers, KCATA, Architect/Engineer, as appropriate to agenda topics for each meeting.
- (4) Agenda:
  - (a) Review minutes of previous meetings.
  - (b) Review of Work progress.
  - (c) Field observations, problems, and decisions.
  - (d) Identification of problems which impede planned progress.
  - (e) Review of submittals schedule and status of submittals.
  - (f) Review of off-site fabrication and delivery schedules.
  - (g) Maintenance of progress schedule.
  - (h) Corrective measures to regain projected schedules.
  - (i) Planned progress during succeeding work period.
  - (j) Coordination of projected progress.
  - (k) Maintenance of quality and work standards.
  - (l) Effect of proposed changes on progress schedule and coordination.
  - (m) Other business relating to Work.
- (5) Record minutes and distribute copies within two (2) working days after meeting to all participants, KCATA PMO, and those affected by decisions made.

#### 03.03.07 PRE-INSTALLATION MEETING

- (1) When required in individual specification sections, convene a pre-installation meeting at the site prior to commencing work of the section.
- (2) Require attendance of parties directly affecting, or affected by, work of the specific section.
- (3) Notify the KCATA four (4) working days in advance of meeting date.
- (4) Prepare agenda and preside at meeting:
  - (a) Review conditions of installation, preparation and installation procedures.

- (b) Review coordination with related work.
- (5) Record minutes and distribute copies within two (2) working days after meeting to all participants, KCATA PMO, and those affected by decisions made.

**END OF SECTION**



## 03.04 REGULATORY REQUIREMENTS

## 03.04.01 CODES

- (1) In addition to these specifications, the laws, ordinances, and latest amendments thereto at the place of construction shall govern this project and shall include and conform to applicable laws, ordinances, and industry standards including:

ADAAG	Americans With Disabilities Act Accessibility Guidelines
UFAS	Uniform Federal Accessibility Standards
OSHA	Occupational Safety and Health Administration
SMACNA	Sheet Metal and Air-Conditioning Contractors' National Assn.
ASHRAE	American Society of Heating, Refrigeration and Air-Conditioning Engineers
UL	Underwriters' Laboratories
KCMMB	Kansas City Metro Materials Board
CRSI	Concrete Reinforcing Steel Institute
AISC	American Institute of Steel Construction
NRCA	National Roofing Contractors' Association.
ASTM	American Society of Testing Materials
AWI	Architectural Woodwork Institute Quality Standards
DWI	Door and Window Institute
ANSI	ANSI/AAMA Industry Standards
FGMA	FGMA Glazing Manual
NFPA	National Fire Protection Association
---	Class "A" Rating for Roofing (unless otherwise noted)
---	Missouri State Health Department
---	Missouri Inspection Bureau
---	National codes adopted by the local jurisdiction with respective local amendments.
1.	IBC International Building Code, Latest Edition.
2.	IMC International Mechanical Code, Latest Edition.
3.	IPC International Plumbing Code, Latest Edition.
4.	IEC International Electrical Code, Latest Edition.
5.	IFC International Fire Code, Latest Edition.
6.	NEC NFPA 70 National Electric Code Latest Edition

- (2) Also, any other ordinances, laws, rules, or regulations of the local jurisdiction, or federal, state, or local organizations having jurisdiction over any or all parts of this improvement.
- (3) In case of conflict, the KCATA Project Management Office will decide which authority is applicable, and its decision shall be final.

#### 03.04.02 SPECIFICATIONS AND DRAWINGS

- (1) These specifications are intended to supplement the contract drawings, and it will not necessarily be the province of these specifications to describe all portions of the project which the drawings are competent to explain. All items and/or work necessary for the completion of the project must be supplied in place even if of such nature that they could have been indicated on the drawing or described in the specification. The decision of the KCATA Project Management Office as to the proper interpretation of the drawings and specifications shall be final.

**END OF SECTION**

## 03.05 PROJECT PROCEDURES

## 03.05.01 SITE VISITATION

- (1) Contractor shall visit the site to ensure familiarity with all work to be performed.
- (2) Failure of Contractor or their Subcontractors to visit the site shall in no way relieve them of their responsibilities.

## 03.05.02 AWARD OF CONTRACT AND BEGINNING WORK

- (1) Prior to execution of Contract, KCATA and Contractor shall review the following:
  - (a) Major Subcontractors and materials suppliers
  - (b) Construction schedule
  - (c) Unit prices, if any
  - (d) Clarification of work scope and/or alternates

## 03.05.03 LAYOUT WORK

- (1) Contractor shall verify all grades, lines, levels, and dimensions and establish benchmarks and survey control required for construction.

## 03.05.04 PROTECTION OF ADJACENT PROPERTY

- (1) Contractor shall protect all adjacent property, streets, curbs, fences, and plantings during construction that are not intended to be part of the project.
- (2) Any damaged material on adjacent property as mentioned in 02.05.06 shall be replaced or repaired to the KCATA's satisfaction at the Contractor's expense.

## 03.05.05 PROTECTION OF WORK IN PROGRESS

- (1) Work in progress shall be properly protected from damage.
- (2) Any work in progress that is damaged by other operations shall be repaired or replaced to the KCATA's satisfaction at the Contractor's expense.

## 03.05.06 CONSTRUCTION LIMITS

- (1) All construction activities must be limited within the designated construction limits as shown on the plans. If construction limits are not designated in the plans, the Contractor shall limit construction activities to within public right of way.

## 03.05.07 ALTERATION PROJECT PROCEDURES

- (1) Materials: As specified in Product sections; match existing Products and work for patching

and extending work.

- (2) Employ skilled and experienced installer to perform alteration work.

**END OF SECTION**

## 03.06 SUBMITTALS

## 03.06.01 REFERENCES

- (1) AGC (Associated General Contractors of America) publication "The Use of CPM in Construction - A Manual for General Contractors and the Construction Industry".

## 03.06.02 SUBMITTAL PROCEDURES

- (1) Transmit each submittal from Contractor to the KCATA or the KCATA designated representative. The Contractor shall submit the documents electronically in Portable Document format (PDF) via the Project's ProjectWise account. Coordinate submission of related items.
- (2) Hard copy submittals may also be required as directed by the KCATA.
- (3) Submittals received from other sources other than Contractor will be returned without action.
- (4) Sequentially number the transmittal form. Revise submittals with original number and a sequential alphabetic suffix.
- (5) Identify Project, Contractor, Subcontractor or supplier, pertinent drawing and detail number, and specification section number, as appropriate.
- (6) Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of Products required, field dimensions, adjacent construction Work, and coordination of information is in accordance with the requirements of the Work and Contract Documents.
- (7) Schedule submittals to expedite the Project and deliver to the KCATA or the KCATA designated representative at business address identified herein. Coordinate submission of related items.
- (8) For each submittal for review, allow fifteen (15) working days excluding delivery time to and from the Contractor.
- (9) Identify variations from Contract Documents and Product or system limitations which may be detrimental to successful performance of the completed Work.
- (10) Provide space for Contractor and Architect/Engineer review stamps.
- (11) Revise and resubmit submittals as required; identify all changes made since previous submittal.
- (12) When revised for resubmission, identify all changes made since previous submission.
- (13) Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report any inability to comply with requirements.
- (14) Submittals not required or requested may not be reviewed or processed.

**03.06.03 CONSTRUCTION PROGRESS SCHEDULES**

- (1) Contractor shall prepare construction progress schedule for presentation at preconstruction conference.
- (2) Schedule shall be in bar chart format plotting all items of work and material/equipment fabrication/delivery on calendar covering estimated project construction period. Actual progress shall be plotted against estimated progress by solid and dashed lines. Chart shall also indicate estimated and actual per cent of completion at monthly intervals.
- (3) Schedule shall account for necessary coordination of the KCATA activities, if applicable.
- (4) Submit initial schedule within ten (10) working days after date of KCATA-Contractor Agreement established in Notice to Proceed.
- (5) Revise and resubmit the initial schedule as requested by the KCATA within five (5) working days of the request being made.
- (6) Submit revised schedules with each Application for Payment, identifying changes since previous version.
  - (a) Submit a computer-generated horizontal bar chart with separate line for each major portion of Work or operation identifying first workday of each week.
  - (b) Show complete sequence of construction by activity, identifying Work of separate stages and other logically grouped activities. Indicate the early and late start, early and late finish, float dates, and duration.
  - (c) Indicate estimated percentage of completion for each item of Work at each submission.
  - (d) Indicate submittal dates required for shop drawings, product data, samples, and product delivery dates, including those furnished by KCATA and required by Allowances.

**03.06.04 PROPOSED PRODUCTS LIST**

- (1) Within ten (10) working days after date of KCATA-Contractor Agreement, submit list of major products proposed for shop drawing or catalog cut review, with name of manufacturer, trade name, and model number of each product.
- (2) For products specified only by reference standards, give manufacturer, trade name, model or catalog designation, and reference standards.

**03.06.05 PRODUCT DATA**

- (1) Product Data for Review:
  - (a) Submitted to the KCATA or the KCATA designated representative for review for the limited purpose of checking for conformance with information given and the design

concept expressed in the contract documents.

- (b) After review, provide copies and distribute in accordance with Section 03.06.02 SUBMITTAL PROCEDURES for record documents purposes.
- (2) Product Data for Information:
  - (a) Submitted for the KCATA's and/or Architect/Engineer's knowledge.
- (3) Product Data for Project Close-out:
  - (a) Submitted for the KCATA's benefit during and after project completion.
- (4) Submit in accordance with Section 03.06.02 SUBMITTAL PROCEDURES.
- (5) Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- (6) Indicate Product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- (7) After review distribute in accordance with Section 03.06.02 SUBMITTAL PROCEDURES and provide copies for record documents purposes.

#### 03.06.06 SHOP DRAWINGS

- (1) Shop Drawings for Review:
  - (a) Submitted to the KCATA or the KCATA designated representative for review for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents.
  - (b) After review, produce copies and distribute in accordance with Section 03.06.02 SUBMITTAL PROCEDURES article above and for record documents purposes.
- (2) Shop Drawings for Information:
  - (a) Submitted for the KCATA's and/or Architect/Engineer's knowledge.
- (3) Shop Drawings for Project Close-out:
  - (a) Submitted for the KCATA's benefit during and after project completion.
- (4) Indicate special utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- (5) After review, reproduce and distribute in accordance with Article on Procedures above and for Record Documents.
- (6) Submit in accordance with Section 03.06.02 SUBMITTAL PROCEDURES.



## 03.06.07 SAMPLES

- (1) Samples for Review:
  - (a) Submitted to the KCATA or the KCATA designated representative for review for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents.
  - (b) After review, produce duplicates and distribute in accordance with Section 03.06.02 SUBMITTAL PROCEDURES and for record documents purposes.
- (2) Samples for Information:
  - (a) Submitted for the KCATA's and/or Architect/Engineer's knowledge.
- (3) Samples for Selection:
  - (a) Submitted to the KCATA or the KCATA designated representative for aesthetic, color, or finish selection.
  - (b) Submit samples of finishes from the full range of manufacturers' standard colors, or in custom colors selected if required per specific product specifications, textures, and patterns for KCATA selection.
  - (c) After review, produce duplicates and distribute in accordance with Section 03.06.02 SUBMITTAL PROCEDURES and for record documents purposes.
- (4) Submit samples where noted in individual Specification Sections to illustrate functional and aesthetic characteristics of the Product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
- (5) Include identification on each sample, with full Project information.
- (6) Submit the number of samples specified in individual specification sections; one of which will be retained by the KCATA or the KCATA designated representative.
- (7) Reviewed samples which may be used in the Work are indicated in individual specification sections.
- (8) Samples will not be used for testing purposes unless specifically stated in the specification section.

## 03.06.08 DESIGN DATA

- (1) Submitted for the KCATA's and/or Architect/Engineer's knowledge.
- (2) Submit for information for the limited purpose of assessing conformance with information given and the design concept expressed in the contract documents.

## 03.06.09 TEST REPORTS

- (1) Submitted for the KCATA's and/or Architect/Engineer's knowledge.
- (2) Submit test reports for information for the limited purpose of assessing conformance with information given and the design concept expressed in the contract documents.

**03.06.10 CERTIFICATES**

- (1) When specified in individual specification sections, submit certification by the manufacturer, installation/application Subcontractor, or the Contractor to the KCATA or the KCATA designated representative, in quantities specified for Product Data.
- (2) Indicate material or Product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- (3) Certificates may be recent or previous test results on material or Product but must be acceptable to the KCATA or the KCATA designated representative.

**03.06.11 MANUFACTURER'S INSTRUCTIONS**

- (1) When specified in individual specification sections, submit instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, to KCATA in quantities specified for Product Data.
- (2) Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.
- (3) Identify conflicts between manufacturers' instructions and Contract Documents.

**END OF SECTION**

03.07 SAFETY PLAN

03.07.01 GENERAL REQUIREMENTS

- (1) The Contractor shall adhere to OSHA and its own safety requirements for the fabrication of this work.

**END OF SECTION**

## 03.08 QUALITY CONTROL

## 03.08.01 QUALITY ASSURANCE – CONTROL OF INSTALLATION

- (1) Monitor quality control over suppliers, manufacturers, Products, services, site conditions, and workmanship, to produce Work of specified quality.
- (2) Comply with manufacturers' instructions, including each step, in sequence.
- (3) Should manufacturers' instructions conflict with Contract Documents, request clarification from the KCATA or the KCATA designated representative before proceeding.
- (4) Comply with specified standards as minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- (5) Perform Work by persons qualified to produce required and specified quality.
- (6) Verify that field measurements are as indicated on shop drawings or as instructed by the manufacturer.
- (7) Secure Products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.

## 03.08.02 TOLERANCES

- (1) Monitor fabrication and installation tolerance control of Products to produce acceptable Work. Do not permit tolerances to accumulate.
- (2) Comply with manufacturers' tolerances. Should manufacturers' tolerances conflict with Contract Documents, request clarification from the KCATA or the KCATA designated representative before proceeding.
- (3) Adjust Products to appropriate dimensions; position before securing Products in place.

## 03.08.03 REFERENCES AND STANDARDS

- (1) For Products or workmanship specified by association, trade, or other consensus standards, comply with requirements of the standard, except when more rigid requirements are specified or are required by applicable codes.
- (2) Conform to reference standard by date of issue current on date of Contract Documents, except where a specific date is established by code.
- (3) Obtain copies of standards where required by product specification sections.
- (4) Neither the contractual relationships, duties, or responsibilities of the parties in Contract nor those of the KCATA or the KCATA designated representative shall be altered from the Contract Documents by mention or inference otherwise in any reference document.

**03.08.04 MOCK-UPS AND FIELD SAMPLES**

- (1) Tests will be performed under provisions identified in this section and identified in the respective product specification sections.
- (2) Assemble and erect specified items with specified attachment and anchorage devices, flashings, seals, and finishes.
- (3) Acceptable samples represent a quality level for the Work.
- (4) Install field samples at the site as required by individual specifications Sections for review.
- (5) Where mock-up has been accepted by the KCATA or the KCATA designated representative and is specified in product specification sections to be removed; remove mock-up and clear area when directed to do so.

**03.08.05 TESTING SERVICES**

- (1) Testing and source quality control may occur on or off the project site. Perform off-site testing as required by any applicable building codes and/or manufacturer's recommendations.

**03.08.06 INSPECTION SERVICES**

- (1) Inspections may occur on or off the project site. Perform off-site inspecting as required by any applicable codes and/or manufacturer's recommendations.

**03.08.07 MANUFACTURER'S FIELD SERVICES**

- (1) When specified in individual specification sections, require material or Product suppliers or manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, test, adjust and balance of equipment and as otherwise applicable, and to initiate instructions when necessary.
- (2) Submit qualifications of observer to the KCATA or the KCATA designated representative seven (7) calendar days in advance of required observations. Observer subject to approval of the KCATA or the KCATA designated representative.
- (3) Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.
- (4) Submit report in accordance with Section 03.06.02 SUBMITTAL PROCEDURES within five (5) calendar days of observation to the KCATA or the KCATA designated representative for review.

**03.08.08 EXAMINATION**

- (1) Verify that existing site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.

- (2) Verify that existing substrate is capable of structural support or attachment of new Work being applied or attached.
- (3) Examine and verify specific conditions described in individual specification sections.
- (4) Verify that utility services are available, of the correct characteristics, and in the correct locations.

03.08.09 PREPARATION

- (1) Apply manufacturer required or recommended substrate primer, sealer, or conditioner prior to applying any new material or substance in contact or bond.

**END OF SECTION**

## 03.09 MATERIAL AND EQUIPMENT

## 03.09.01 PROVIDED MATERIAL

- (1) Eight sections of (nominal) 39-foot 112 Tram rail (312 rail feet) shall be allocated for the Contractor's use in the fabrication of the completed joints.
- (2) This material will be available for pick up in the Kansas City metropolitan area in February 2023. The Contractor shall transport this material from Kansas City to its facility as needed. No additional payment shall be made for this transportation.

## 03.09.02 PRODUCTS

- (1) Do not use materials and equipment removed from existing premises, except as specifically permitted by the Contract Documents.
- (2) Provide interchangeable components of the same manufacture for components being replaced.

## 03.09.03 TRANSPORTATION AND HANDLING

- (1) Transport and handle Products in accordance with manufacturer's instructions.
- (2) Promptly inspect shipments to ensure that Products comply with requirements, quantities are correct, and Products are undamaged.
- (3) Provide equipment and personnel to handle Products by methods to prevent soiling, disfigurement, or damage.
- (4) Protect finished surfaces including jambs and soffits of openings used as passageways through which equipment and materials are handled.
- (5) Maintain finished surfaces clean, unmarred, and suitably protected until accepted by KCATA.
- (6) Provide protection for finished floor surfaces in traffic areas prior to allowing equipment or materials to be moved over such surfaces.

## 03.09.04 STORAGE AND PROTECTION

- (1) Store and protect Products in accordance with manufacturers' instructions.
- (2) Store with seals and labels intact and legible.
- (3) Store sensitive Products in weather tight, climate controlled, enclosures in an environment favorable to Product.
- (4) Deliver products to job site in manufacturers' original container with labels intact and legible.
- (5) Promptly remove damaged material and unsuitable items from job site and promptly replace

with material meeting the specified requirements at no additional cost to KCATA.

- (6) Maintain packaged materials with seals unbroken and labels intact until time of use.
- (7) The KCATA or the KCATA designated representative may reject as non-complying such material and products that do not bear identification satisfactory to the KCATA or the KCATA designated representative as to manufacturer, grade, quality, and other pertinent information.
- (8) For exterior storage of fabricated Products, place on sloped supports above ground.
- (9) Provide bonded off-site storage and protection when site does not permit on-site storage or protection.
- (10) Cover Products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of Products.
- (11) Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.
- (12) Provide equipment and personnel to store Products by methods to prevent soiling, disfigurement, or damage.
- (13) Arrange storage of Products to permit access for inspection. Periodically inspect to verify Products are undamaged and are maintained in acceptable condition.
- (14) In event of damage, promptly make replacements and repairs to the KCATA or the KCATA designated representative's approval at no additional cost to KCATA.
- (15) Additional time required to secure replacements and to make repairs will not be considered by KCATA to justify an extension on the Contract Time and Completion.

#### 03.09.05 PRODUCT OPTIONS

- (1) Products Specified by Reference Standards or by Description Only: Any Product meeting those standards or description.
- (2) Products Specified by Naming One or More Manufacturers: Products of manufacturers named and meeting specifications, no options or substitutions allowed.
- (3) Products Specified by Naming One or More Manufacturers with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named in accordance with the following article.



## 03.09.06 SUBSTITUTIONS

- (1) Instructions to Bidders specify time restrictions for submitting requests for Substitutions during the bidding period to requirements specified in this section.
- (2) Document each request with complete data substantiating compliance of proposed Substitution with Contract Documents.
- (3) A request constitutes a representation that the Bidder:
  - (a) Has investigated proposed Product and determined that it meets or exceeds the quality level of the specified Product.
  - (b) Will provide the same warranty for the Substitution as for the specified Product.
  - (c) Will coordinate installation and make changes to other Work which may be required for the Work to be complete with no additional cost to KCATA.
  - (d) Waives claims for additional costs or time extension which may subsequently become apparent.
  - (e) Will reimburse the KCATA or the KCATA designated representative for review or redesign services associated with re-approval by authorities.
- (4) Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- (5) Substitution Submittal Procedure:
  - (a) Submit in accordance with Section 03.06.02 SUBMITTAL PROCEDURES a copy of request for Substitution for consideration. Limit each request to one proposed Substitution.
  - (b) Submit shop drawings, product data, and certified test results attesting to the proposed Product equivalence. Burden of proof is on proposer.
  - (c) The KCATA or the KCATA designated representative will notify Contractor in writing of decision to accept or reject request.

**END OF SECTION**

## 03.10 PROJECT CLOSEOUT

## 03.10.01 SUBSTANTIAL COMPLETION AND FINAL PAYMENT

- (1) Additional provisions related to Substantial Completion and Final Payment are included in AIA Document A207 Article 9 Payments and Completion, Paragraphs 9.8, 9.9, and 9.10.
- (2) All manufacturer's warranties required by the Contract Documents shall commence on the Date of Substantial Completion of Work or designated portions thereof. For work first completed after Substantial Completion, such manufacturing warranties shall commence on the date the Work is accepted unless some other warranty commencement date is specifically referenced elsewhere in the Contract Documents for a specific warranty.
- (3) The Contractor and each Subcontractor shall carefully and regularly check their work for conformance as the work is being done. Unsatisfactory work shall be corrected as the work progresses and not be permitted to remain and become a part of the punch list.
- (4) Notify the KCATA or the KCATA designated representative in writing when each work element at the site is ready for the punch list inspection. Prepare and submit with the notification a list of items to be corrected or completed.
  - (a) The KCATA or the KCATA designated representative will make arrangements for their punch list inspection at the earliest possible date.
- (5) Transmittal of the punch list to the Contractor shall set the date for reinspection prior to issuance of a Certificate of Substantial Completion. Upon receipt of the punch list, the Contractor shall within seven (7) days advise the KCATA or the KCATA designated representative of any questions that the Contractor or any of their Subcontractors may have concerning the requirements of the punch list.
- (6) When advised by the Contractor that the punch list items have been completed, the KCATA or the KCATA designated representative shall conduct a reinspection with the Contractor and any needed Subcontractors where applicable, to determine whether the Certificate of Substantial Completion can be issued.
  - (a) If, upon the first reinspection, it is found that punch list items are not sufficiently complete that a Certificate of Substantial Completion cannot be issued, the Contractor shall be responsible for the KCATA's costs for additional Professional Services for preparation of a new punch list and any subsequent reinspections and administrative services prior to issuance of the Certificate of Substantial Completion. The KCATA's costs for such additional Professional Services will be charged to the Contractor at the rate of \$150.00 per hour, plus applicable reimbursable expenses. Professional Services and expenses will be deducted from project retainage. . If the project does not have retainage, expenses shall be deducted from final payment. Documentation of these expenses will be provided to the Contractor by the KCATA.
- (7) When issued, the Certificate of Substantial Completion shall name the date, triggering the beginning of the warranty period, with any items to have a later starting date specifically noted. The Certificate shall also have attached to it the uncompleted punch list items and

shall name the date for their completion.

- (8) Acknowledgement of the Date of Substantial Completion by the signature of all parties on the Certificate implies possession of the premises by the KCATA, and completion of incomplete punch list items by the Contractor and the Subcontractors at the KCATA's convenience. The KCATA shall cooperate in permitting the Contractors access to the work for the completion of punch list items.
- (9) Upon issue of the Certificate of Substantial Completion, the Contractor may submit the following applications:
  - (a) Submittal of Final Payment Application. Final Certificate of Payment shall be issued by the KCATA or the KCATA designated representative bringing the total of payments up to the full payment less retainage or less an amount which the KCATA or the KCATA designated representative reasonably estimates would be required to cover more than the cost of any incomplete items of work.
  - (b) Submittal of Retainage Release Application
- (10) Upon written notice by the Contractor that the remaining punch list items are completed, the KCATA or the KCATA designated representative shall verify this by inspection and shall issue to the KCATA a final Certificate of Payment stating that, to the best of their knowledge, information, and belief, the Work has been completed in accordance with the terms and conditions of the Contract Documents, and that the entire balance found to be due the Contractor, and noted in said Final Certificate of Payment, is due and payable. The KCATA shall make payments as stated in the Owner Contractor Agreement.
- (11) If, after Substantial Completion, final completion is delayed for more than thirty (30) calendar days through no fault of the KCATA or the KCATA designated representative, the Contractor shall be responsible for the KCATA's costs for additional professional services. During this period, the KCATA or the KCATA designated representative will make only one inspection to verify completion of punch list items. Any additional inspections required, and related administrative services will be considered additional professional services. The KCATA's costs for additional professional services will be charged to the Contractor at the rate of \$150.00 per hour, plus applicable reimbursable expenses. Professional Services and expenses will be deducted from project retainage. If the project does not have retainage, expenses shall be deducted from final payment. Documentation of these expenses will be provided to the Contractor by the KCATA.

#### 03.10.02 PROJECT RECORD DOCUMENTS

- (1) At least fourteen (14) calendar days prior to the punch list inspection, prepare and submit to the KCATA or the KCATA designated representative one complete set of PDF project drawings, and one PDF complete set of specifications. Documents shall be neatly marked in red to show an accurate "as built" record of construction.
- (2) Carefully mark drawings during construction to accurately locate items of construction that will be concealed when the project is completed. Carefully measure and show dimensions of all concealed work including, but not limited to, buried piping, buried or concealed electrical services, utility entrances, cables, conduit and piping.

- (a) Accurately show the location of utilities, including capped pipes, by two dimensions, depth below grade, additional valves, drains, cleanouts, changes in conduit routing, changes in wiring, changes in pull or junction boxes, etc., and the changes covered by any Change Orders issued during construction.
- (3) Neatly mark specifications to reflect names of manufacturers and products incorporated in the Work.
- (4) Final payment will not be made until project record documents are submitted to and approved by the KCATA or the KCATA designated representative.

#### 03.10.03 OPERATIONS AND MAINTENANCE MANUALS

- (1) At least fourteen (14) calendar days before the punch list inspection, prepare and submit to the KCATA or the KCATA designated representative two complete sets of information describing the operation and maintenance of all systems, equipment, and finishes provided in this project. Information shall be presented in three ring, loose leaf binders with the words "Operation and Maintenance Manual" and the names and addresses of the Project, Contractor, the KCATA and the KCATA designated representative neatly and permanently marked on the cover.
- (2) Information shall be logically organized and subdivided in sections on the basis of operation without regard to construction trades, Subcontractors or specification sections. Each section shall be neatly tabbed and identified for easy reference.
- (3) Information required includes, but is not limited to:
  - (a) Complete list of Subcontractors, noting applicable specification section, item of work, Subcontractor's name, address, telephone number and the name of the person to contact.
  - (b) Schedule of Values of ongoing maintenance, if required.
  - (c) Manufacturer's recommendations for operation and maintenance of all equipment and systems including charts, diagrams, performance curves, catalog data and maintenance manuals.
  - (d) Manufacturer's recommendations for use and maintenance of all finish materials.
  - (e) Duplicate copies of all warranties, guarantees and bonds.

#### 03.10.04 FINAL CLEANING

- (1) General cleaning during construction is required by the General Conditions.
- (2) Clean the site of rubbish, litter and other foreign substances caused by construction.
- (3) Finished Surfaces: Remove marks, fingerprints and other soil and dirt from painted, glazed, decorated, stained or otherwise finished surfaces, including ceilings. Remove construction dust from horizontal and vertical surfaces. Repaint or refinish as required to restore

surfaces to "as new" quality.

- (4) Fixtures and Equipment: Remove stains, paint droppings, spots, dirt, etc., from electrical fixtures, plumbing fixtures, mechanical and electrical equipment, etc.
- (5) Concrete and Masonry: Remove paint, stains, dirt and other foreign materials from all exposed surfaces.
- (6) Removal of Protection: Remove temporary protection and facilities installed for protection of the work during construction.
- (7) At completion of the work, remove all temporary facilities, trash and debris from the site. Leave the site and building clean, neat, and ready for occupancy.
- (8) Compliance: Comply with regulations of authorities having jurisdiction and safety standards for cleaning. Do not discharge volatile, harmful or dangerous materials into drainage systems. Remove waste materials from the site and dispose of in a lawful manner.

#### 03.10.05 CONTRACTOR'S AFFIDAVIT AND INDEMNITY

- (1) Submit three completed and notarized copies of AIA Form G706 "Contractor's Affidavit of Payment of Debts and Claims" and AIA Form G707 "Consent of Surety Company to Final Payment" with request for Final Payment.

**END OF SECTION**

## 03.11 TESTING, INSPECTIONS, PERMITS, &amp; MAINTENANCE BONDS

## 03.11.01 TESTING

- (1) On-site testing shall be provided by the KCATA. KCATA provided testing shall include subgrade & aggregate density tests, concrete sampling and testing, and asphalt compaction testing. Contractor shall be responsible to notify the KCATA, its representative and the designated testing lab when materials are ready for testing, prior to placement of concrete or subsequent materials.
- (2) Fabrication-related testing shall be performed by the Contractor. A certified inspector shall perform these tests and shall document the inspection finding daily.
- (3) Contractor shall be responsible for all testing necessary to assure concrete and/or asphalt plants, products and materials are in compliance with the specifications, unless specifically identified otherwise.
- (4) Contractor shall provide adequate notice when requesting testing. A minimum of 24-hour notice shall be provided. Contractor may request testing services less than 24 hours after notice, however, if the KCATA testing lab is not available, the Contractor shall not proceed with work unless one of the following occurs:
  - (a) The KCATA project manager determines it is acceptable to proceed without the required testing. In this instance, the KCATA reserves the right to conduct post placement testing and charge the Contractor for any costs in excess of the normal testing charges.
  - (b) The Contractor obtains another testing lab, acceptable to the KCATA, to conduct testing. In this instance, the Contractor shall be responsible for all costs associated with the testing.
  - (c) The KCATA shall provide special inspection testing if required.
- (5) Subgrade and aggregate base for asphalt and concrete pavement must be proof rolled with a loaded dump truck in addition to density testing as specified. Proof roll truck shall have a minimum rear axle load of 20,000 lbs. for single axel or 40,000 lbs. for tandem axle. Proof rolling must be witnessed by the KCATA, its representative or the designated testing lab. Identified soft spots (areas rutting to a depth of greater than 1" shall be removed, re-compacted and retested prior to Contractor proceeding with pavement placement.

## 03.11.02 INSPECTIONS

- (1) Inspections shall be performed by the KCATA or their representative.

## 03.11.03 PERMITS

- (1) Contractor shall be required to pay for all required permits. All costs (e.g. electrical, excavation, traffic control, etc.) shall be paid for in accordance with Section 05 – Measurement and Payment.

- (2) For a list of anticipated permits and special instructions refer to Section 03.07 Anticipated Permits.

03.11.04 MAINTENANCE BOND

- (1) Two-year Maintenance Bond required.

03.11.05 SYSTEM INTEGRATION TESTING

- (1) The Contractor shall furnish one (1) unit of any specialized test equipment needed to test and/or set up their equipment as required to test the functionality of the installed system and its integration with the KCATA equipment and systems. This equipment shall include all software installed into the equipment and accessories to be delivered complete and ready for operation.
- (2) A detailed testing and integration plan is included in Section 03 – “Project Special Provisions”. Contractor shall provide all necessary equipment and shall perform the designated tests in accordance with the System Integration Plan.
- (3) The Contractor shall notify the KCATA seven (7) calendar days prior to performing the test. The test shall not commence without approval by the KCATA. Contractor shall submit test results to the KCATA. The results submittal shall demonstrate that the functionality of the proposed equipment is directly applicable to the KCATA System.

**END OF SECTION**

## **04 STANDARD TECHNICAL SPECIFICATIONS**

### **04.01 ADMINISTRATION & MANAGEMENT**

(1) See Section 03.01.02 ADMINISTRATION & MANAGEMENT.

### **04.02 PROJECT PHOTOGRAPHS**

- (1) The Contractor shall take and store photographs of the project's progression. These photos shall be made available to the KCATA upon request.

**END OF SECTION**



## 05 PROJECT MEASUREMENT AND PAYMENT

THE FOLLOWING SCOPE OR BID ITEMS MAY NOT BE INCLUDED IN THE PROPOSAL OR BID FORM. THE ONLY BID ITEMS FOR THIS PROJECT ARE AS INDICATED IN THE BID FORM. THE COST OF ALL WORK NECESSARY TO COMPLETE THE PROJECT AS INDICATED IN THE PLANS AND SPECIFICATIONS SHALL BE INCLUDED IN THE ITEMS LISTED IN THE BID FORM.

### 05.01 MOBILIZATION

- 05.01.01 Mobilization shall be considered Lump Sum and paid at the contract unit price as shown on the bid form. Such payment and price shall constitute full compensation for all labor, all bonds, permits, insurance, temporary office, materials, and equipment necessary to complete the item.
- 05.01.02 Mobilization costs shall be paid as follows: 1st Payment application – 50%, 2nd Payment application – 25%, 3rd Payment application – 25%. If requested, the Contractor shall submit a breakdown of items included in Mobilization.

### 05.02 ADMINISTRATION AND MANAGEMENT

- 05.02.01 Administration & Management shall be considered Lump Sum and paid out as a percentage equal to the estimated percent complete of the project. Such payment and price shall constitute full compensation for all labor, materials and equipment necessary to complete the item. The total cost for Administrative and Management shall not exceed 8% of the total Contract Value.

### 05.03 MATERIAL FABRICATION

#### 05.03.01 Material Fabrication shall be paid:

- (1) Upon receipt of invoiced raw material used for the fabrication of delivered material and included with the Contractor's monthly estimate. Prior to payment for raw material, photographs or other Owner-accepted proof shall be received that indicates the material stored in a secure area away from other raw materials.
- (2) Design work shall be paid at a four-month prorated lump sum value with the total amount of design work not to exceed 18% of the Contract Value.
- (3) At a prorated value of the remaining value of the contract over the scheduled months of fabrication (after four-month design timeframe to delivery of materials)

### 05.04 PROJECT PHOTOGRAPHS

- 05.04.01 No separate payment will be made for "Project Photographs". All costs pertaining thereto shall be included in the contract prices for other items listed in the bid form.